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OFFICE OF AUDIT SERVICES

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SEP 15 2005

Report Number: A-02-03-01023

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Commissioner
New York State Department of Health
Empire State Plaza
Fourteenth Floor, Room 1408
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Albany, New York 12237

Dear Dr. Novello:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of Medicaid Transportation Claims Made by the New York City Department of Education." A copy of this report will be forwarded to the HHS action official noted below for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

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Please refer to report number A-02-03-01023 in all correspondence.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy J. Horgan".

Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures

Page 2 – Antonia C. Novello, M.D., M.P.H, Dr. P.H.

Direct Reply to HHS Action Official:

Ms. Sue Kelly
Associate Regional Administrator
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Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICAID
TRANSPORTATION CLAIMS MADE
BY THE NEW YORK CITY
DEPARTMENT OF EDUCATION**



**Daniel R. Levinson
Inspector General**

**SEPTEMBER 2005
A-02-03-01023**

Office of Inspector General

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OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the HHS divisions will make final determination on these matters.



EXECUTIVE SUMMARY

OBJECTIVE

Our objective was to determine whether Federal Medicaid payments for transportation services claimed by the New York City Department of Education (NYCDE) were in compliance with Federal and State requirements. Our audit period covered September 1, 1993, through June 30, 2001, during which time such payments totaled \$122.6 million.

Officials of the Centers for Medicare & Medicaid Services (CMS) requested the audit.

SUMMARY OF FINDINGS

None of the 120 transportation claims in our statistical sample complied with all Federal laws and regulations, Federal guidance, and State regulations. The Federal law and regulations governing allowability of transportation services are contained in section 1902(a)(27) of the Social Security Act and 42 CFR §§ 431.17 and 433.32. Relevant Federal guidance includes Office of Management and Budget Circular A-87, a 1997 CMS Medicaid school-based technical assistance guide, and Medicaid State operations letters issued by CMS. Further, State regulations issued to the provider community govern the allowability of school health services.

Pursuant to these requirements, (1) documentation must be maintained to support transportation services billed, (2) a Medicaid-covered service other than transportation must be provided on days when transportation is billed, (3) a child's individualized education plan or an individualized family service plan (child's plan/family plan) must be prepared, and (4) transportation services must be included in the child's plan/family plan.

The deficiencies noted in the 120 noncompliant claims are summarized below:

- For 119 claims, we were unable to verify that the transportation services billed were rendered.
- For 97 claims, a Medicaid-covered school health service other than transportation was not rendered on days when transportation was billed.
- Eight claims lacked any documentation at all.
- For 33 claims, no child's plan/family plan was provided or the plan was untimely.
- Thirty-six claims did not include a recommendation for transportation services in the child's plan/family plan.

We determined that many of these claims were unallowable because they did not meet the requirements of Federal law or regulations or State regulations.¹ Based on our sample, we estimate that \$96,110,877 in Federal Medicaid funding was unallowable.

We “set aside” other claims for consideration by CMS and the State because Federal Medicaid law and regulations require that services be documented but do not specify how transportation services should be documented.² Based on our sample, set-aside claims totaled an estimated \$12,130,322 in Federal Medicaid funding. In these cases, NYCDE did not have documentation to support the actual dates that students were transported or the number of daily round trips billed to Medicaid. Nevertheless, there was evidence that related school health services were rendered during the month that transportation services were claimed, and some of the students who received those health services may have also received transportation services.

In our opinion, these deficiencies occurred because (1) NYCDE billed Medicaid for transportation services based on monthly averages of planned health services rather than actual transportation services rendered, (2) the State did not provide proper guidance about CMS’s policy requirement for documentation to support the number of transportation services billed, (3) NYCDE did not comply with Federal and State guidance related to Federal and State requirements for billing transportation services to the Medicaid program, (4) the State did not adequately monitor transportation claims from NYCDE for compliance with Federal and State requirements, and (5) NYCDE failed to maintain appropriate documentation to support its transportation claims.

RECOMMENDATIONS

We recommend that the State:

- refund \$96,110,877 to the Federal Government;
- work with CMS to resolve \$12,130,322 in set-aside claims;
- instruct NYCDE to bill transportation based on the actual number of transportation services rendered, not based on averages;
- provide proper guidance on Federal and State Medicaid criteria to NYCDE;
- reinforce the need for NYCDE to comply with Federal and State requirements;
- improve its monitoring of NYCDE’s transportation claims to ensure compliance with Federal and State requirements; and

¹The 120 claims that did not comply with Federal or State requirements consisted of 113 claims that were unallowable plus 32 set-aside claims less 25 claims with both unallowable and set-aside amounts.

²Id.

- instruct NYCDE to maintain appropriate documentation to support its Medicaid transportation claims.

STATE'S COMMENTS AND SUPPLEMENTAL INFORMATION

In February 14, 2005, comments on our draft report, State officials disagreed with most aspects of the report, including the audit period, approach, criteria, and conclusions, and stated that the draft report should be withdrawn. State officials said that the averages used to bill transportation were based on actual services rendered, not on planned services recommended in a child's plan/family plan. The State also expressed concern that we had applied Federal regulations designed for a medical office setting to an educational setting. With the exception of the State's Exhibit C, which contained documentation related to 65 claims questioned by our audit, the full text of the State's comments is included as Appendix F.

In a June 9, 2005, letter, a law firm representing NYCDE submitted supplemental documentation for 28 claims questioned by our audit. That documentation is not included in Appendix F.

OFFICE OF INSPECTOR GENERAL'S RESPONSE

We disagree with most of the State's comments. We planned this audit in conjunction with the Department of Justice and CMS. Our criteria and conclusions are valid. The averages used to bill transportation were based on planned nontransportation services recommended in a child's plan/family plan, not on actual services rendered. Medicaid school health providers need to follow the documentation standards required of all Medicaid providers.

After reviewing the documentation included with the State's comments and the supplemental documentation supplied by the law firm, we reduced the number of unallowable claims from 117 to 113, increased the number of set-aside claims from 15 to 32, and increased the number of claims with both unallowable and set-aside amounts from 12 to 25 claims. If the State furnishes additional relevant documentation to CMS during the resolution process or if the State can prove that records were destroyed in accordance with established record retention policies, we will assist the parties in recalculating the sample projection.

Finally, in finding that none of the 120 sampled claims complied with all Federal and State requirements, we identified deficiencies that could have a direct impact on the quality of services rendered. We believe that the State needs to strengthen compliance with Federal and State requirements to ensure proper administration of this program.

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Glossary of Abbreviations and Acronyms

CFR	Code of Federal Regulations
CMS	Centers for Medicare & Medicaid Services
DOJ	Department of Justice
HCFA	Health Care Financing Administration
IDEA	Individuals with Disabilities Education Act
MA	Medical Assistance
NYCDE	New York City Department of Education
OIG	Office of Inspector General
RSAF	Related Service Attendance Form

INTRODUCTION

BACKGROUND

The Medicaid Program

Under Title XIX of the Social Security Act (the Act), the Medicaid program pays the health care costs of persons who qualify because of medical condition, economic condition, or other qualifying factors. Medicaid costs are shared between the Federal Government and the States. Within the Federal Government, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program.

To participate in Medicaid, a State must submit and receive CMS's approval of a State plan. The State plan is a comprehensive document describing the nature and scope of the State's Medicaid program and the State's obligations to the Federal Government. Medicaid pays for medically necessary services that are specified in Medicaid law when included in the State plan and when provided to individuals eligible under the State plan.

Medicaid Coverage of School Health Services

Section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) amended section 1903(c) of the Act to permit Medicaid payment for medical services provided to children under the Individuals with Disabilities Education Act (IDEA) (originally enacted as Public Law 91-230 in 1970) through a child's plan/family plan.

In August 1997, CMS issued a school-based guide entitled "Medicaid and School Health: A Technical Assistance Guide." According to this guide, school health-related services included in a child's plan/family plan may be covered if all relevant statutory and regulatory requirements are met. In addition, the guide provides that a State may cover services included in a child's plan/family plan as long as (1) the services are listed in section 1905(a) of the Act and are medically necessary; (2) all Federal and State regulations are followed, including those specifying provider qualifications; and (3) the services are included in the State plan or are available under the Early and Periodic Screening, Diagnostic and Treatment Medicaid benefit. Covered services may include but are not limited to physical therapy, occupational therapy, speech pathology/therapy services, psychological counseling, nursing, and transportation services.

New York's Medicaid Program

In New York State, the Department of Health is the State agency responsible for operating the Medicaid program. Within the Department of Health, the Office of Medicaid Management administers the Medicaid program. The Department of Health uses the Medicaid Management Information System, a computerized payment and information reporting system, to process and pay Medicaid claims, including school health claims.

The Department of Health and the State Education Department developed the State's school and preschool supportive health services programs. In general, under the school program, 5- to 21-year-old students receive school health services from their local school districts. Under the preschool program, 3- to 4-year-old children receive school health services through their county offices.

The Federal share of school health claims was 50 percent during our audit period. Under the State's Medicaid program, only the Federal share is actually paid to school health providers, including the New York City Department of Education (NYCDE). The State share is taken from the school district's or county's annual State education aid appropriation. In addition, the State takes back 50 percent of the Federal share from the school districts, leaving them with 25 percent of each claim submitted, and 59.5 percent from the counties (preschools), leaving them with 20.25 percent of each claim submitted.

Transportation claims paid by the State's Medicaid Management Information System show a service date of the first of the month for services rendered during that month. A field on the Medicaid claim form shows the number of days claimed per month by school health providers. Medicaid reimburses school-based transportation claims based on the number of days billed multiplied by a daily rate. The daily rate for round-trip transportation was \$23 for New York City. Until July 1, 1999, Medicaid reimbursed transportation by a common carrier, such as a school bus, or by a "specialized" vehicle, such as a wheelchair bus or van, an "ambulette," or an invalid coach. In a May 1999 letter, CMS advised State Medicaid directors that beginning July 1, 1999, only specialized transportation could be billed to Medicaid.

New York City Department of Education

NYCDE (formerly known as the New York City Board of Education) is the largest provider of school health services in the State. More than 1 million students are enrolled in NYCDE, which encompasses 5 boroughs/counties and consists of 40 school districts.

During our September 1, 1993, through June 30, 2001, review period, NYCDE submitted more than 62 percent of the State's Medicaid claims for school health transportation services provided to school and preschool students.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether Federal Medicaid payments for transportation services claimed by NYCDE were in compliance with Federal and State requirements.

Scope and Methodology

Our audit period covered September 1, 1993, through June 30, 2001. During our audit, we did not review the overall internal control structure of the State or the Medicaid program. Rather, we limited our internal control review to the objective of our audit.

To accomplish our objective, we:

- met with CMS regional and central office officials to plan the audit;
- reviewed applicable Federal and State regulations and guidelines;
- reviewed prior survey work that we had performed at 11 schools and preschools in the State, including those of NYCDE;
- held discussions with officials of the State Department of Health and the Education Department to gain an understanding of the State's school and preschool programs;
- met with NYCDE officials to gain an understanding of their procedures for billing transportation services to Medicaid;
- made survey site visits to NYCDE from April through June 2000 to gain an understanding of its organization, school health program, and Medicaid claiming procedures and to review 79 claims (including transportation claims) for 9 students;
- ran computer programming applications at the Medicaid Management Information System fiscal agent that identified 15,311,862 school and preschool claims totaling over \$5 billion (\$2.5 billion Federal share) for the period April 1, 1990, through June 30, 2001;
- extracted all NYCDE school and preschool claims from our programming applications;
- eliminated from our programming applications all duplicate school and preschool claims (including those made by NYCDE) that were identified in an Office of the State Comptroller audit report (Report 2000-S-1) for the period January 1, 1997, through December 31, 1999; and
- eliminated, for periods before and after the Office of the State Comptroller's audit period, all duplicate school and preschool claims made by NYCDE, which we discussed in a December 20, 2002, Office of Inspector General (OIG) report (A-02-02-01018).

We extracted from the programming applications the transportation claims for our September 1, 1993, through June 30, 2001, audit period. These applications identified 1,166,001 transportation claims totaling \$245,178,679 (\$122,589,340 Federal share) made by NYCDE. These claims were made on behalf of 72,314 beneficiaries (students). We then used stratified random sampling techniques to select a sample of 120 claims from the universe of 1,166,001 transportation claims.¹ Appendix A contains the details of our sample design and methodology.

¹We first distributed a sample of 100 claims over 3 strata of Federal amounts paid. If the basic stratification scheme for the sample of 100 allocated fewer than 30 claims to a particular stratum, the sample size for that stratum was increased to 30 to conform to our standards. The resulting sample size was 120.

On May 24, 2002, we issued letters to NYCDE school and preschool offices requesting documentation to support the 120 sampled claims. Of the 120 claims, 112 were for school students and 8 were for preschool students. Appendix B contains the instructions that were attached to our letters.

In conjunction with CMS officials, we developed worksheets that contained the criteria applied to each sampled claim. We reviewed the documentation submitted by NYCDE against the criteria on these worksheets to determine whether the claims were allowable.

We determined that the initial documentation submitted by NYCDE was inadequate, and we issued 2 additional letters to NYCDE requesting further documentation for all 120 sampled claims. We reviewed the additional documentation that NYCDE submitted. We also reviewed numerous documents that the State indicated it had used to calculate averages for billing Medicaid for NYCDE transportation services.

We used a variables appraisal program to estimate the dollar impact of the improper Federal funding claimed in the total population of 1,166,001 transportation claims. We estimated both a recommended financial adjustment and a set-aside amount.

We performed fieldwork at the State Department of Health in Albany, NY; the State Medicaid Management Information System fiscal agent in Menands, NY; the CMS central office in Baltimore, MD; and NYCDE.

We conducted our review in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

None of the 120 transportation claims in our statistical sample complied with all Federal and State requirements. Table 1 summarizes the deficiencies noted and the number of claims that contained each type of deficiency. Appendix C shows our determinations on the deficiencies in each sampled claim.

Table 1: Summary of Deficiencies in Sampled Claims

Type of Deficiency	Number of Unallowable Claims ²
1. Unable to verify that the transportation services billed were rendered	119
2. Daily round trips claimed in excess of the number of days when nontransportation school health services were rendered	97
3. No documentation provided	8
4. No or untimely child's plan/family plan	33
5. Transportation services not included in child's plan/family plan	36

²Total exceeds 120 because 112 claims contained more than 1 error.

In our opinion, these deficiencies occurred because:

- NYCDE billed Medicaid for transportation services based on monthly averages of planned health services rather than actual transportation services rendered.
- The State did not provide NYCDE with proper guidance about CMS's policy requirement for documentation to support the number of transportation services billed.
- NYCDE did not comply with guidance related to Federal and State requirements.
- The State did not adequately monitor transportation claims from NYCDE for compliance with Federal and State requirements.
- NYCDE failed to maintain appropriate documentation to support its transportation claims.

DEFICIENCIES NOTED IN SAMPLED CLAIMS

The sections below discuss the five types of deficiencies noted in the sampled claims and the criteria that we applied in determining whether claims complied with Federal and State requirements.

1. Unable To Verify That the Transportation Services Billed Were Rendered

Section 1902(a)(27) of the Act, Federal regulations (42 CFR §§ 431.17 and 433.32), and CMS's August 1997 technical assistance guide state that services claimed for Federal Medicaid funding must be documented. The State acknowledged this requirement in November 1992 guidance and provided a form for school health providers' use in documenting the number of services rendered per month. The State reemphasized this requirement in August 1995 guidance.

In addition, a July 29, 1994, CMS letter to the State provides: "In general, HCFA [Health Care Financing Administration³] policy requires the development and maintenance of sufficient written documentation to support each Medicaid service for which billing is made."

For 119 of the 120 sampled claims, NYCDE did not maintain service delivery documentation, such as travel logs, that identified the specific dates on which transportation services were rendered. The primary reason for this deficiency was that NYCDE claimed Medicaid reimbursement for transportation services based on monthly averages, not actual transportation services rendered. Furthermore, the monthly averages were not computed using actual transportation or actual school health services provided to students but rather were based on planned school health services other than transportation (such as speech and physical therapy) recommended in a child's plan/family plan. (See page 9 for more details.)

³CMS was formerly known as HCFA.

Medicaid reimbursed providers for transportation services based on the number of days billed multiplied by a daily rate. Therefore, in our opinion, NYCDE should have maintained service delivery documentation for each student. Further, transportation documentation should have correlated with the dates when school health services were provided.

2. Daily Round Trips Claimed in Excess of the Number of Days When Nontransportation School Health Services Were Rendered

CMS's Medicaid State Operations Letter 94-06, issued in February 1994, states that consistent with section 1903(c) of the Act, Medicaid will reimburse providers for transportation to onsite services for children under IDEA if (1) the child receives a Medicaid-covered service other than transportation and (2) both the covered service and the transportation are included in the child's plan/family plan.

In addition, State regulations (New York Compilation of Codes, Rules and Regulations, Title 18, section 505.10(d)(7)) provide:

Payment is available for transportation services provided in order for the recipient to receive an MA [medical assistance] covered service if the recipient receives such services (other than transportation services) at school or off the school premises and both the covered service and transportation service are included in the recipient's individualized education plan. Payment is available for transportation services provided in order for the recipient . . . to receive an MA covered service if both the covered service and transportation service are included in the recipient's interim or final individualized family services plan.

Finally, State guidance issued in June 1994 and August 1995 provides that transportation services may be billed for a round trip once per day on a day that the student also receives a covered Medicaid school health service.

For 97 sampled claims, Medicaid-covered school health services other than transportation were not rendered on days when transportation was claimed.

For 56 of the 97 claims, NYCDE did not submit any service delivery documentation of nontransportation services rendered. For example, NYCDE billed for 4 days of transportation in one sampled claim but did not submit documentation to show that it had rendered any school health services other than transportation during the month. Therefore, for this claim, NYCDE should not have billed for transportation services.

For 41 of the 97 claims, NYCDE submitted service delivery documentation showing that the number of transportation services billed exceeded the number of nontransportation services delivered. For example, in 1 sampled claim, NYCDE claimed 13 transportation services, but documentation showed that it had provided only 2 services other than transportation that month. For this claim, NYCDE should have billed for only two transportation services.

3. No Documentation Provided

Section 1902(a)(27) of the Act, Federal regulations (42 CFR §§ 431.17 and 433.32), and CMS's August 1997 technical assistance guide state that services claimed for Federal Medicaid funding must be documented.

For 8 of the 120 sampled claims, NYCDE did not provide any documentation at all.

4. No or Untimely Child's Plan/Family Plan

Section 1903(c) of the Act permits Medicaid payments for school health services provided to children that are identified in a child's plan/family plan. Part B of IDEA, which established the concept of the child's plan/family plan, requires that school districts prepare, for each child with special needs, a child's plan/family plan that specifies all needed special education and related services. The "related services" provided for in the child's plan/family plan are often medical services that are potentially reimbursable by Medicaid. Medicaid will pay for medical services provided pursuant to an IDEA-required child's plan/family plan if the services are listed in the child's plan/family plan and meet all other Medicaid requirements.

In addition, State regulations (New York Compilation of Codes, Rules and Regulations, Title 18, section 505.10) provide that transportation services may be billed to Medicaid if the need for transportation is listed in the child's plan/family plan.

The U.S. Department of Education establishes the requirements for a child's plan/family plan. Federal regulations of that Department (34 CFR § 300.342) state that a child's plan must be in effect at the beginning of each school year, be in effect before special education and related services are provided, and be implemented as soon as possible following the meetings described under section 300.343. Also, 34 CFR § 300.343 states that the child's plan must be reviewed at least annually to determine whether the annual goals for the child are being achieved and to revise the child's plan as appropriate.

State regulations implementing the U.S. Department of Education requirements (part 200.4(f) of the Regulations of the Commissioner of Education) provide that the child's plan "of each student with a disability shall be reviewed and, if appropriate, revised, periodically but not less than annually." Part 200.4(f)(2) states that before the annual review, a Committee on Special Education must notify the parent of its intent to review the student's program and placement.⁴ Part 200.4(f)(3) states that upon completion of the annual review, the committee must notify the parent of the committee's recommendations. Part 200.4(d)(2)(iii) states that the committee must develop a child's plan that includes recommendations listing measurable annual goals. Pursuant to the Medicaid State plan, the State is responsible for monitoring the provision of services in accordance with these regulations (State Plan Amendment 92-42, Attachment 4.16-A).

⁴A Committee on Special Education, a multidisciplinary team established to ensure timely evaluation and placement of students, develops, reviews, and revises the child's plan/family plan of students with disabilities.

Additionally, the CMS August 1997 technical assistance guide states that health-related services provided in a school may be covered under Medicaid only “if all relevant statutory and regulatory requirements are met.”

Of the 120 sampled claims, 33 did not meet Federal and State requirements for a child’s plan/family plan:

- Sixteen claims lacked any child’s plan/family plan.
- For four claims, the child’s plan/family plan provided by NYCDE was prepared after the service date under review.
- For 13 claims, the child’s plan/family plan provided by NYCDE had not been reviewed in the 12 months prior to the service date under review.

5. Transportation Services Not Included in Child’s Plan/Family Plan

Section 1903(c) of the Act permits Medicaid payments for medical services provided to children under IDEA that were included in a child’s plan/family plan. Pursuant to Part B of IDEA, school districts must prepare a child’s plan/family plan for each child that specifies all special education and related services needed by the child. Similarly, State regulations (New York Compilation of Codes, Rules and Regulations, Title 18, section 505.10) provide that transportation services may be billed to Medicaid if the need for transportation is listed in the child’s plan/family plan.

For 36 sampled claims, the child’s plan/family plan did not identify or recommend transportation services. Therefore, these services were not Medicaid reimbursable.

CAUSES OF DEFICIENCIES IN CLAIMS

As discussed below, we found five main causes of the deficient claims.

NYCDE Billed Medicaid for Transportation Services Based on Monthly Averages

NYCDE billed Medicaid for transportation services based on monthly averages rather than the actual number of transportation or school health services rendered during the month. The averages were based on four types of planned school health services recommended in a child’s plan/family plan: speech therapy, physical therapy, occupational therapy, and psychological counseling.

The State Department of Social Services developed the averages in 1993 from a random sample of 1,779 New York City Medicaid-eligible special education children. The averages were computed based on the frequency of planned services, other than transportation services, recommended in a child’s plan/family plan over the 6-month period from October 1991 through March 1992. The State’s computations showed that an average of nine speech therapy, eight occupational therapy, eight physical therapy, and four psychological counseling services were intended to be provided each month.

During our September 1, 1993, through June 30, 2001, audit period, if the child's plan/family plan for a school-aged student recommended speech therapy, NYCDE billed for nine monthly transportation services, regardless of the actual number of transportation services provided during the month. Similarly, if the child's plan/family plan recommended occupational or physical therapy, NYCDE billed for eight monthly transportation services, and if the child's plan/family plan recommended psychological counseling services, NYCDE billed for four transportation services. NYCDE officials stated that if the child's plan/family plan listed more than one service, they used the higher monthly average to bill for transportation. In addition, the State and NYCDE determined that 13 transportation services per month would be billed for children in district 75, a separate NYCDE district for special education students.

According to NYCDE officials, these averages were also intended to be used to bill transportation for preschool students. However, they stated that due to a billing error that affected the entire population of preschool claims made during our audit period, they actually billed only one to three transportation services per month for preschool students.

Our review of numerous documents supporting the State's computations of the averages demonstrated that the averages were not based on service records (known as related-service attendance forms), but rather on the anticipated frequency of nontransportation services recommended in a child's plan/family plan. NYCDE used the standardized service records to record the monthly speech therapy, physical therapy, occupational therapy, and psychological counseling services provided, but not to record transportation services.

Additionally, the transportation averages were excessive when compared with actual nontransportation services provided for the 120 sampled claims. For 64 of the 120 claims, NYCDE provided records to support the related services provided during the month when transportation was billed. The records showed that for only 23 of the 64 claims (36 percent), the actual number of related services provided equaled or exceeded the average number of transportation services billed.

In a January 14, 2003, letter to us, State Department of Health officials said that CMS was aware of how they computed the averages by means of State plan amendment 92-42, which CMS approved on June 2, 1995. However, a follow-up letter dated February 14, 2003, stated that the officials had found no documentation indicating CMS was aware that averages were being used. Our review found that the amendment did not address the averages, and CMS officials said that they did not approve the State's use of averages to claim Medicaid reimbursement.

State Guidance Was Improper

The State did not supply NYCDE with proper guidance on Federal criteria concerning appropriate documentation to support Medicaid transportation claims. As a result, for 119 of the 120 sampled claims, NYCDE submitted no service delivery documentation, such as a transportation log, to substantiate the specific number of transportation services rendered.

On June 30, 1994, the State wrote to CMS regarding acceptable documentation for transportation claims. The letter stated: "While transportation is traditionally documented by means of a 'trip

ticket' or log, we are proposing the use of secondary documentation to substantiate the provision of transportation by school districts to MA special education recipients.” The State proposed the use of school attendance records and service records showing that the student received a medical service included in the child’s plan at the school site/contractor location.

On July 29, 1994, CMS responded that its policy required the development and maintenance of sufficient written documentation to support each Medicaid service billed. At a minimum, according to CMS, the documentation should consist of (1) the specific service rendered, (2) the date and time the service was rendered, (3) who rendered the service, (4) the setting in which the service was rendered, and (5) the time it took to render the service, if relevant. CMS further stated:

Transportation is a separate Medicaid service even when furnished to children who are receiving services under IDEA. The above documentation requirements must be met. We do not believe that inferring that a child used Medicaid transportation to and from school because he/she attends school and receives a Medicaid service on a particular day meets the above requirements.

CMS’s letter concluded by stating: “We regret that we cannot support this proposal.”

Notwithstanding CMS’s rejection of the State’s proposal, the State did not advise the school health provider community, including NYCDE, to keep date-specific service delivery documentation to support transportation services billed to Medicaid. Rather, the State continued to inform providers that the use of “secondary documentation,” such as bus rosters, was acceptable. Similarly, a January 2002 memorandum from the State Education Department to the provider community did not require providers to maintain date-specific service delivery documentation, such as transportation logs, to support their Medicaid claims. The guidance continued to incorrectly maintain that bus rosters were acceptable documentation.

NYCDE Did Not Comply With Guidance Related to Federal and State Requirements

NYCDE also submitted unallowable claims because it did not comply with Federal and State guidance related to Federal and State requirements for billing the Medicaid program for transportation services. These requirements provide that transportation may be claimed once per day on a day when the student receives a Medicaid-covered school health service other than transportation. The State provided guidance on these requirements to NYCDE in both June 1994 and August 1995. However, for 97 sampled claims, NYCDE did not render Medicaid-covered school health services other than transportation on days when it claimed transportation.

Federal and State requirements provide that related services, including transportation, may be billed to Medicaid if the need for transportation is listed in the child’s plan/family plan. Although the State notified NYCDE of this requirement, the child’s plan/family plan did not identify or recommend transportation services for 36 sampled claims.

The State Did Not Adequately Monitor Transportation Claims

The State did not adequately monitor transportation claims from NYCDE for compliance with Federal and State requirements. Specifically, during our September 1, 1993, through June 30, 2001, audit period, the State conducted only one documentation review at NYCDE. Neither the State nor NYCDE was able to supply us with a copy of the report issued as a result of this review, which the State conducted in December 1993. Given that NYCDE submitted about two-thirds of all school health claims and more than 62 percent of all transportation claims in the State, we believe that these reviews should have occurred more frequently.

NYCDE Failed To Maintain Adequate Documentation

As evidenced throughout this report, NYCDE failed to maintain adequate documentation to support its transportation claims to Medicaid. For example, for 119 sampled claims, NYCDE did not maintain or submit documentation, such as a transportation log, that showed the specific number of transportation services rendered. Additionally, NYCDE did not provide a child's plan/family plan applicable to the service date under review for 33 sampled claims and provided no documentation at all to support 8 sampled claims.

PROJECTION OF DEFICIENCIES TO UNIVERSE OF CLAIMS

While none of the 120 transportation claims sampled was in accordance with all Federal and State requirements, we determined that some of these claims were unallowable and that others should be set aside for consideration by CMS and the State.⁵

Recommended Financial Adjustment

This category includes 88 claims that were unallowable and 25 claims that were partially unallowable, for a total of 113 claims that did not meet the requirements of Federal law or regulations or State regulations. Extrapolating the results of our sample, we estimate that the State improperly claimed between \$96,110,877 and \$110,690,143 in Federal funds. The midpoint of the confidence interval amounted to \$103,400,510. The range shown has a 90-percent confidence level with a sampling precision as a percentage of the midpoint of 7.05 percent. The details of our sample results and projection are shown in Appendix D, page 1 of 2.

Set-Aside Amount

We set aside other claims because Federal Medicaid law and regulations require that services be documented but do not specify how transportation services should be documented. In these cases, NYCDE documentation did not support the actual dates that students were transported or the number of daily round trips billed to Medicaid. Nevertheless, there was evidence that related school health services were rendered during the month that transportation services were claimed,

⁵The 120 claims that did not comply with Federal or State requirements consisted of 113 claims that were unallowable plus 32 set-aside claims less 25 claims with both unallowable and set-aside amounts.

and some of the students who received those health services may have also received transportation services.

This category includes 7 claims with a full set-aside amount and 25 claims with a partial set-aside amount, for a total of 32 claims. Extrapolating the results of our sample, we estimate that the amount that the State and CMS will need to resolve is between \$12,130,322 and \$26,639,040 in Federal funds. The midpoint of the confidence interval amounted to \$19,384,681. The range shown has a 90-percent level of confidence with a sampling precision as a percentage of the midpoint of 37.42 percent. The details of our sample results and projection are shown in Appendix D, page 2 of 2.

RECOMMENDATIONS

We recommend that the State:

- refund \$96,110,877 to the Federal Government;
- work with CMS to resolve \$12,130,322 in set-aside claims;
- instruct NYCDE to bill transportation based on the actual number of transportation services rendered, not based on averages;
- provide proper guidance on Federal and State Medicaid criteria to NYCDE;
- reinforce the need for NYCDE to comply with Federal and State requirements;
- improve its monitoring of NYCDE's transportation claims to ensure compliance with Federal and State requirements; and
- instruct NYCDE to maintain appropriate documentation to support its Medicaid transportation claims.

STATE'S COMMENTS, SUPPLEMENTAL DOCUMENTATION, AND OFFICE OF INSPECTOR GENERAL'S RESPONSE

In comments dated February 14, 2005, State officials disagreed with the findings and recommendations in our draft report and stated that the report should be withdrawn. Their response included a 12-page summary attached to a 2-page cover letter, plus 3 exhibits labeled A to C. With the exception of Exhibit C, which contained documentation related to 65 claims questioned by our audit, the State's comments are included in their entirety as Appendix F.

In a June 9, 2005, letter supplementing the State's response, a law firm representing NYCDE submitted documentation for 28 claims questioned by our audit. This supplemental documentation is not included in Appendix F.

The majority of the documentation in the State's Exhibit C and the supplemental documentation was not new information. However, based on the information provided, we deleted the finding entitled "Unable To Verify That a Minimum of Two School Health Services Other Than Transportation Were Rendered During the Month Billed."⁶ We also reduced the number of unallowable claims from 117 to 113, increased the number of set-aside claims from 15 to 32, and increased the number of claims with both unallowable and set-aside amounts from 12 to 25.

Below are summaries of the main issues raised by the State and our response to those comments.

Reasons for the Audit

State's Comments

State officials said that a Department of Justice (DOJ) investigation of three school districts was the primary impetus for our audit of NYCDE's transportation claims as well as five additional audits of the State's Medicaid school health program.

Office of Inspector General's Response

The primary reasons for this audit and five additional audits were past OIG survey work that found numerous problems with the State's Medicaid school health claims, including survey work that found a 92-percent error rate in NYCDE's Medicaid school health claims; past CMS reviews dating back to 1993 that found problems with the State's claims; and a DOJ investigation of the State. Additionally, the State accounts for 44 percent of all Medicaid school health payments nationwide.

Audit Period and Approach

State's Comments

State officials said that our September 1, 1993, through June 30, 2001, audit period was inconsistent with the audit periods that we used in reviewing other States' school health programs. State officials noted that the audit periods used in other States were usually more recent years. Additionally, officials stated that although Federal regulations (42 CFR § 433.32(b)) require a State to retain records for 3 years from the submission of a final expenditure report and although the State requires providers to keep records for 6 years from the date of service, our audit covered claims for services as far back as 1993. The State asserted that because school districts, including NYCDE, were not required to maintain records for such distant periods, they were not able to thoroughly document many of the sampled claims. Finally, State officials noted that relative to the audits in other States, the New York State audit used a miniscule sample size of 120 claims.

⁶Our report entitled "Review of Medicaid Transportation Claims Made by School Health Providers in New York State" (A-02-03-01008, issued August 31, 2004) included the same finding for 16 claims. The elimination of this finding would affect only 1 service on 1 of the 16 claims. This change would reduce the estimated unallowable costs by only \$109,093 to \$17,129,518 and would increase the estimated set-aside amount by \$108,565 to \$35,907,256. The change would not materially affect our overall conclusions and recommendations.

Office of Inspector General's Response

On the basis of fraud allegations that we received from DOJ and after consulting with CMS, we identified an audit period of September 1, 1993, through June 30, 2001. Record retention standards do not establish a bar on what periods we may audit. In a March 31, 2003, letter, NYCDE conceded that most school districts retain relevant files well beyond the retention period. However, notwithstanding this practice, NYCDE did not establish that pertinent documentation in support of the sampled claims ever existed, nor has NYCDE established that any pertinent records were discarded or destroyed. If the State furnishes additional relevant documentation to CMS during the resolution process or if the State can prove that records were destroyed in accordance with established record retention policies, we will assist the parties in recalculating the sample projection.

We disagree with the State's comment on our sample size. We select our samples according to principles of probability; that is, every sampling unit has a known non-zero chance of selection. An estimate made from a sample is valid if it is unbiased or nearly so and if we can compute its margin of sampling error for a given probability. The low percentage of total items that were sampled is not a relevant statistical issue.

To increase the expected precision of the estimates, we used stratification. Accordingly, the transportation claims were sorted in ascending order by the Federal amount paid, and using the cumulative square root of frequency method to determine dollar-value stratum boundaries and applying Neyman allocation, a sample of 100 claims was distributed over 3 strata. If the basic stratification scheme for the sample of 100 allocated fewer than 30 claims to a particular stratum, the sample size for that stratum was increased to 30 to conform to our standards. The use of larger sample sizes usually has the advantage of yielding estimates with better precision without affecting the estimate of the mean. The expected result of better precision would typically be a larger lower bound for the confidence interval of the estimate. In this audit, we used the lower bound as the amount recommended for monetary recovery. With a larger sample size, the expected result would be a larger lower limit and a larger recommended disallowance.

Computation of the Averages

State's Comments

State officials said that we incorrectly believed that the computations of the averages that NYCDE used to bill transportation were based on planned services rather than the average of actual services rendered. According to the officials, NYCDE billed for transportation based on a formula derived from averages of related nontransportation services provided. The officials said that because NYCDE is the largest school district in the United States, with 1,075,710 students enrolled in 1,207 schools, the State permitted NYCDE to bill transportation based on averages. The State commented that some students would receive fewer transportation services per month than the averages billed and that an equal number would receive more. Finally, the State said that the overall expenditures for transportation using the monthly averages would not be greater than the expenditures that would have been made using actual encounters because the State used a conservative method for determining the averages.

Office of Inspector General’s Response

Contrary to the State’s comments, the averages used to bill transportation were not based on actual services provided. Rather, the averages were computed based on the frequency of planned services, other than transportation services, recommended in a child’s plan/family plan over the 6-month period from October 1991 through March 1992. Our conclusion is based on a review of the State’s workpapers and related documents used in the computations of the averages, including 26 boxes of information that the State indicated was used in its calculations.

Appendix E contains selected workpapers and related documents containing the State’s computations of the averages. Page one of Appendix E is a State-prepared workpaper titled “Average Frequency Per Week Based on 1779 Sample of NYC School Age for 10/91 – 3/92.” The conclusion on this workpaper states: “The average weekly frequency based on IEP [individualized education plan] prescribed for Medicaid eligible students for the period 10/91 – 3/92 was as follows: PT [physical therapy] 2.28/wk, ST [speech therapy] 2.48/wk, and OT [occupational therapy] 2.28/wk.” [Emphasis added.] Pages two through four of Appendix E show how the State used these numbers to compute the average monthly frequency of nine services for speech therapy and eight services for physical and occupational therapy. NYCDE used these averages to bill for transportation. Specifically, during our September 1, 1993, through June 30, 2001, audit period, NYCDE billed for nine monthly transportation services if speech therapy was provided to a school-aged student. Similarly, if physical or occupational therapy was provided to a school-aged student, NYCDE billed for eight monthly transportation services.

In a January 14, 2003, letter responding to questions raised by our audit, the State indicated that it had documentation to support its computations of the averages. We reviewed the documentation provided in 26 boxes of child’s plans/family plans. We recorded the frequency of recommended services in these plans and computed the averages using this information. Table 2 shows that our calculations of the averages were similar to those computed by the State.

Table 2: Office of Inspector General Versus State Averages

	Speech Therapy	Physical Therapy	Occupational Therapy
Number of students:			
Calculated by OIG	691	78	102
Calculated by State	683	75	101
Averages:			
Calculated by OIG	9.05	8.73	8.35
Calculated by State	9.0	8.3	8.3

From the analysis above, we concluded that the State based the averages on frequencies of planned services recommended in the child’s plan/family plan, not on actual services rendered.

As part of our review of the 26 boxes, we also looked for the presence of related-service attendance forms or other service recording documentation for the 1,779 sampled students. Related-service attendance forms are standardized forms that NYCDE used to show the actual number of speech therapy, physical therapy, occupational therapy, and psychological counseling services rendered, but not transportation services rendered. We found forms for just over half (55.7 percent) of the 1,779 sampled students—another indication that the State did not use actual services rendered to compute the averages. From the forms found, we recorded the number of services rendered, along with the number of months in which services were rendered. Table 3 compares the averages based on the forms with the averages billed.

Table 3: Average Number of Services Rendered Versus Billed

	Speech Therapy	Physical Therapy	Occupational Therapy	Psychological Counseling
Averages based on forms	5.41	5.40	5.36	3.05
Averages billed	9	8	8	4

As shown above, the averages based on related-service attendance forms are lower than the averages that NYCDE used to bill Medicaid for transportation. Therefore, the State’s comment that an equal number of students would receive a higher or lower number of transportation services than the averages billed is without merit, as is the comment that the overall expenditures for transportation using the monthly averages would not be greater than the expenditures that would have been made using actual encounters.

Additionally, the transportation averages were excessive when compared with actual nontransportation services provided for the 120 sampled claims. For 64 of the 120 claims, NYCDE provided records to support the related services rendered during the month when transportation was billed. The records showed that for only 23 of the 64 claims (36 percent), the actual number of related services provided equaled or exceeded the average number of transportation services billed.

Irrespective of how the averages were computed, they do not represent the actual transportation services rendered to students and are an inappropriate way to claim Medicaid reimbursement.

Documentation Requirements

State’s Comments

According to State officials, we are disallowing transportation claims not because the services were not rendered, but because we were unable to find transportation logs or similar documentation to substantiate transportation billings. State officials said that NYCDE did not maintain transportation logs. State officials also said that NYCDE was able to locate bus rosters/schedules for 110 of the 120 sampled cases and that this information should be acceptable

documentation for transportation services. (Exhibit A of the State's response shows that the State actually provided bus roster/schedule information for 111 of the 120 sampled claims.)

Office of Inspector General's Response

For 119 of the 120 sampled claims, NYCDE had no documentation to substantiate the specific number of transportation services rendered and billed to Medicaid. Because transportation services are reimbursed based on the number of days billed, we had no assurance that transportation services billed were actually rendered without some type of service delivery documentation, such as transportation logs.

The State maintained that transportation services should be considered documented because NYCDE was able to find bus rosters/schedules. This documentation does not support the actual dates that students were transported and is not acceptable documentation. Nevertheless, for some cases, there was evidence (in the form of related-service attendance forms for nontransportation services) that related school health services were rendered during the month that transportation services were claimed, and some of the students who received those related services may have also received transportation services. Therefore, we have set aside claims in which the only deficiency was the lack of service delivery documentation to support transportation services billed. CMS and the State should work together in resolving these claims.

Federal Guidance

State's Comments

State officials said that their ability to assist school districts in properly claiming Medicaid reimbursement had been compromised by the Federal Government's delay in responding to questions involving the interpretation of Federal regulatory requirements. Specifically, the officials believed that the Federal Government had failed to address the inconsistency between Federal guidance mandating that providers retain transportation logs and Federal law requiring only that providers maintain records to support their claims.

According to State officials, CMS was developing Federal guidance on an ad hoc basis, and CMS's interpretation of the availability of transportation to disabled students and the requirements for Medicaid billing were in a constant state of flux. State officials noted that Medicaid State Operations Letter 94-06 had created confusion for the State and school administrators by requiring that regular bus transportation be included in a child's plan/family plan. They maintained that pursuant to IDEA, only specialized transportation was required to be included in a child's plan/family plan. The State said that this misstatement by CMS resulted in providers' stamping plans with the notation "transportation" to meet this new requirement.

State officials also said that CMS's 1997 technical assistance guide contains no mention of transportation logs or similar documentation as a requirement for documenting transportation services. According to the State, in 1994, New York proposed the use of alternative documentation to support transportation services. State officials said that CMS's guidance on documentation for transportation was contained in a July 29, 1994, letter. The letter stated that

the following information must be maintained: the specific service rendered, the date and time the service was rendered, who rendered the service, the setting within which the service was rendered, and the time it took to render the service. The State believed that the records maintained by NYCDE met Federal requirements for documentation of transportation services.

Office of Inspector General's Response

We believe that CMS provided prompt, clear, and noncontradictory guidance to the State. In June 1994, the State proposed the use of "secondary documentation," such as school attendance records and other records showing that the student received a medical service, to substantiate the provision of transportation services billed. CMS responded a month later (in July 1994), rejected the State's proposal, and provided the State with its minimum documentation requirements. CMS also stated that it did "not believe that inferring that a child used Medicaid transportation to and from school because he/she attends school and receives a Medicaid service on a particular day meets the above requirements."

We also disagree that IDEA requires the inclusion of only specialized transportation in a child's plan/family plan. Pursuant to Part B of IDEA, each plan must specify all specialized education and related services needed by the child. Part A of IDEA defines "related services" as "transportation, and . . . developmental, corrective, and other supportive services." Further, Medicaid State Operations Letter 94-06, as well as a February 16, 1994, letter from the Director of CMS's Medicaid Bureau, also specified that transportation must be included in the child's plan/family plan. Finally, the State's own regulations (section 505.10(d)(7)) and a June 1994 memorandum from the State Education Department require that transportation be listed in the child's plan/family plan and do not mention that transportation must be specialized.

Educational Versus Medical Model

State's Comments

State officials said that consistent with the development of a child's plan for disabled children pursuant to IDEA, schools had provided services covered under the school health program since 1975. Officials explained that when schools began to bill Medicaid for these services in 1993, it was both reasonable and consistent with congressional intent that the schools documented and billed these services using an "educational" versus a "medical" model.

According to State officials, we challenged most of the claims on the grounds that school bus drivers did not maintain a log of every child who got on and off a school bus. Officials said that applying this "medical model" approach to public school transportation not only would be unreasonably burdensome but would threaten the health and safety of school children as well. State officials believed that the requirement for this type of documentation, a requirement found in neither statute nor regulation, would distract drivers from their most important task—maintaining the safety of the children.

Office of Inspector General's Response

Medicaid was established as a payer of medical services, and school health providers that enroll as Medicaid providers are not exempt from Medicaid requirements on the provision of State plan services. Medicaid school health providers need to follow the same documentation standards as all Medicaid providers.

Furthermore, the State's guidance on documentation to be maintained by school districts is consistent with the types of documentation maintained by traditional Medicaid providers. Additionally, in response to our audit of speech claims in areas of the State other than New York City (A-02-02-01030), State officials noted that between 1992 and January 2002, they issued 26 separate communiqués to school districts and counties "to aid the school districts in their application of the medical model of documentation of services." [Emphasis added.] In our opinion, these communiqués show that the State understood the program to be a medical model. Also, in guidance directed to the State and in its 1997 technical assistance guide, CMS clearly delineated that school health providers were considered medical providers and that they must meet the documentation standards that apply to all Medicaid providers.

The law and regulations allowing Medicaid to be the primary payer for IDEA services provided in schools do not call for or allow a suspension or loosening of general Medicaid requirements. Specifically, the U.S. Department of Education's 1999 final regulations on IDEA (34 CFR § 300.142(i)) state: "Nothing in this part should be construed to alter the requirements imposed on a State Medicaid Agency, or any other agency administering a public insurance program by Federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act or any other public insurance program." This section clearly specifies that Medicaid requirements apply to school-based IDEA health services.

State's Analysis of Questioned Claims

State's Comments

State officials provided an analysis of the questioned claims and asserted that certain findings could be refuted if alternate documentation were accepted and the 6-year record retention requirement were used. The State asserted that most of the errors noted by our audit resulted from the age of the cases. For example, the State said that the primary reason for the lack of service delivery documentation was the age of the cases in the sample and that if we had selected current Medicaid claims, the claims would have been supported by the type of documentation being sought. The State said that it provided bus rosters/schedules for 110 of the 120 sampled claims in Exhibit A of its response and that this was an alternative method of substantiating the claims. (The State's Exhibit A shows that the State actually provided bus roster/schedule information for 111 of the 120 sampled claims.) The State provided an analysis of our findings related to 65 questioned claims in Exhibit B and documentation related to the 65 claims in Exhibit C.

Office of Inspector General's Response

We disagree with the State's analysis of the questioned claims. We reviewed each of the sampled claims using a worksheet that encompassed Federal and State requirements. CMS officials reviewed and approved these worksheets. If a claim met all of the criteria, we allowed the claim. If it failed one or more of the criteria, we recommended a disallowance or set-aside of the claim. Appendix C shows these criteria, the order in which we applied the criteria to each sampled claim, and the deficiencies noted in the sampled claims.

In response to DOJ's investigation, the State Education Department issued a January 30, 2002, letter to all school health providers (including NYCDE) notifying them of our statewide audit. The letter stated that the Federal Government had requested all providers to preserve all documents related to school health claims from January 1, 1990, forward and provided an extensive list of the documentation that should be preserved. Therefore, we believe that NYCDE should have retained all documentation related to the 120 sampled claims.

Of the 120 sampled claims, 119 did not have documentation that identified the specific dates on which transportation services were rendered. NYCDE did not maintain or submit any service delivery documentation, such as transportation logs, for the 119 claims. Bus rosters of students scheduled to be transported are not acceptable documentation of actual dates that students were transported. Therefore, the State's assertion that Medicaid claims would have been supported by appropriate documentation if we had selected current claims is without merit.

We reviewed the documentation supplied by the State for 65 claims questioned in our draft report. Additionally, we reviewed the supplemental documentation supplied by a law firm representing NYCDE for 28 questioned claims. Based on the information provided, we reduced the number of unallowable claims from 117 to 113, increased the number of set-aside claims from 15 to 32, and increased the number of claims with both unallowable and set-aside amounts from 12 to 25 claims. If the State furnishes additional relevant documentation to CMS during the resolution process or if the State can prove that records were destroyed in accordance with established record retention policies, we will assist the parties in recalculating the sample projection.

Finally, we do not agree with the State's rationale, contained in Exhibit B of its comments, for allowing certain cases. For example, for 1 sampled claim, NYCDE billed 13 transportation services. The State provided documentation showing that 2 related services (psychological counseling) had been provided during the month and said that the 13 transportation services should be allowed. For another sampled claim involving 13 billed transportation services, the State said that the child's plan recommended 8 speech services and 4 psychological counseling services per month and that the student was absent only 1 day during the month. Based on this information, the State concluded that the documentation showed that related services had been provided on 8 days and that the entire transportation claim for 13 services should be allowed. In these and other cases, the State conceded, in effect, that the number of transportation services billed exceeded the number of related services rendered in the sampled month. Therefore, the State's arguments to allow these claims are without merit.

APPENDIXES

SAMPLE DESIGN AND METHODOLOGY

Overview: A contracted statistical consultant developed the sample design and methodology for our audit of transportation claims.

Methodology: The methodology used in the audit was that of full probability sampling, enabling the auditors to compute (1) an unbiased estimate of the total amount of the overpayment for the universe and (2) an estimate of the standard error associated with the estimated overpayment.

Sampling Frame: The sampling frame was Federal Medicaid claims paid for transportation services claimed by New York City Department of Education (NYCDE) schools and preschools with service dates from September 1, 1993, through June 30, 2001. This frame contained 1,166,001 claims totaling \$122,589,340 of Federal funds.

Sampling Procedures: Stratification was deemed beneficial in increasing the expected precision of the estimates. Accordingly, the transportation claims were sorted in ascending order by the Federal amount paid, and using the cumulative square root of frequency method to determine dollar-value stratum boundaries and applying Neyman allocation, a sample of 100 claims was distributed over 3 strata. If the basic stratification scheme for the sample of 100 allocated fewer than 30 claims to a particular stratum, the sample size for that stratum was increased to 30 to conform to our standards. The overall layout of the sampling design was as follows:

Stratum Number	Stratum Range	Sample Size	Stratum Size	Federal Amount Paid
1	>\$0 thru \$50	60	336,712	\$14,143,222
2	>\$50 thru \$110	30	324,010	32,962,197
3	>\$110	30	505,279	75,483,921
Total		120	1,166,001	\$122,589,340

Random Selection: Within each stratum, the claims were sorted by beneficiary identification number and then by service date in ascending order. The claims were then numbered sequentially from 1 to the stratum size. For each stratum, the required random selection numbers were generated by RAT STATS (May 1993 version), an approved software used in Office of Inspector General (OIG) sample auditing. The random selection numbers for each stratum were applied to select the claims to be examined in the audit.

Review Process: Documentation to support the claims that were randomly selected was requested from NYCDE. If documentation supporting a sampled claim was not found, the Federal payment for that claim was considered an error. A Medicaid claim or portion thereof that was questioned based on the lack of date-specific documentation to support the number of transportation services billed was separately projected as a set-aside.

Analysis of Audit Results: A database was produced showing the amount of the overpayment for each sampled claim. Using RAT STATS, the data in the sample were used to derive statistical estimates of the total amount of the overpayment. The lower limit of a symmetric, two-sided 90-percent confidence interval was reported as the estimate of the total overpayment. Thus, it was possible to state as a statistically valid estimate that with 95 percent confidence, the true overpayment was at least as great as the lower limit.

DOCUMENTATION REQUESTED BY OUR AUDIT

Below are the instructions attached to the letters that we sent to NYCDE.

Please provide the following documents and information for the claim(s) for Medicaid reimbursement for transportation services for the student(s) identified by Enclosure A.

1. The student's Individualized Education Plans or Programs (IEPs) or Individualized Family Services Plans (IFSPs) recommending the transportation services provided for the time period under review.
2. Notes, minutes of meetings, or other documents reflecting or relating to consideration by the Committee on Special Education (CSE) of the student's transportation needs for the relevant time period under review and relating to the recommendation on the IEP or IFSP for the period under review.
3. Service encounter records, logs or other documentation substantiating that the transportation services were rendered on the dates for which the NYCDE claimed Medicaid reimbursement for transportation for the student.
4. Documentation sufficient to show the type of transportation service provided to the student (for example, an ambulette, invalid coach, specialized bus, regular school bus, or other).
5. Documentation that the student was on a list of students who were required to be transported by the NYCDE.
6. Service encounter records, logs, or other documentation substantiating that other types of school or preschool health services were rendered and documentation showing the specific number of services rendered each month during the time period under review. If a student was provided school or preschool health services by the NYCDE, please also provide the RSAFs [Related Service Attendance Forms] for the relevant time period.
7. Student and service provider attendance records related to 3 and 6 above for the period under review.
8. Any external or internal written communications (*e.g.*, correspondence, memoranda) or notes relating to the Medicaid claims for the transportation services provided to the student during the relevant time period.
9. If outside contractors or service providers were used to provide the transportation services, please provide a copy of the signed Provider Agreement and Statement of Reassignment.

DEFICIENCIES OF EACH SAMPLED CLAIM

1	Unable to verify that the transportation services billed were rendered
2	Daily round trips claimed in excess of the number of days when nontransportation school health services were rendered
3	No documentation provided
4	No or untimely child's plan/family plan
5	Transportation services not included in child's plan/family plan

OIG Review Determinations on the 120 Sampled Claims

Claim No.	1	2	3	4	5	No. of Deficiencies
S1-1	X	X			X	3
S1-2	X	X			X	3
S1-3	X	X				2
S1-4	X				X	2
S1-5	X	X				2
S1-6	X	X			X	3
S1-7	X	X				2
S1-8	X	X			X	3
S1-9	X				X	2
S1-10	X				X	2
S1-11	X	X			X	3
S1-12	X	X		X		3
S1-13	X	X				2
S1-14	X					1
S1-15	X				X	2
S1-16	X	X			X	3
S1-17	X			X		2
S1-18	X	X	X	X		4
S1-19	X					1
S1-20	X	X			X	3
S1-21	X	X	X	X		4
S1-22	X					1
S1-23	X	X			X	3
S1-24	X	X				2
S1-25	X				X	2
S1-26	X	X				2
S1-27	X	X			X	3
S1-28	X	X				2
S1-29	X				X	2
S1-30	X	X		X		3
S1-31	X	X			X	3

Claim No.	1	2	3	4	5	No. of Deficiencies
S1-32	X	X				2
S1-33	X	X			X	3
S1-34	X	X			X	3
S1-35	X					1
S1-36	X	X			X	3
S1-37	X					1
S1-38	X			X		2
S1-39	X	X			X	3
S1-40	X	X				2
S1-41	X	X		X		3
S1-42	X	X				2
S1-43	X	X				2
S1-44	X	X		X		3
S1-45	X				X	2
S1-46	X			X		2
S1-47	X	X	X	X		4
S1-48	X	X				2
S1-49	X	X		X		3
S1-50	X	X			X	3
S1-51	X	X		X		3
S1-52	X	X			X	3
S1-53	X	X				2
S1-54	X	X	X	X		4
S1-55	X	X			X	3
S1-56	X	X			X	3
S1-57	X	X		X		3
S1-58	X	X			X	3
S1-59	X	X				2
S1-60	X	X	X	X		4
S2-1	X	X			X	3
S2-2	X	X				2
S2-3	X	X				2
S2-4	X	X				2
S2-5	X	X				2
S2-6	X	X				2
S2-7	X	X				2
S2-8	X	X			X	3
S2-9	X	X		X		3
S2-10	X				X	2
S2-11	X	X				2

Claim No.	1	2	3	4	5	No. of Deficiencies
S2-12	X	X				2
S2-13	X	X		X		3
S2-14	X	X				2
S2-15	X	X				2
S2-16	X	X			X	3
S2-17	X	X			X	3
S2-18	X	X		X		3
S2-19	X	X				2
S2-20	X			X		2
S2-21	X	X				2
S2-22	X	X				2
S2-23	X	X				2
S2-24	X	X				2
S2-25	X	X				2
S2-26	X	X			X	3
S2-27	X				X	2
S2-28	X	X				2
S2-29	X	X		X		3
S2-30	X				X	2
S3-1	X	X				2
S3-2	X					1
S3-3	X	X				2
S3-4	X	X				2
S3-5	X	X				2
S3-6	X	X			X	3
S3-7	X	X				2
S3-8	X	X				2
S3-9	X	X		X		3
S3-10	X	X		X		3
S3-11	X	X		X		3
S3-12	X					1
S3-13	X	X				2
S3-14	X	X				2
S3-15	X	X				2
S3-16	X			X		2
S3-17	X	X	X	X		4
S3-18	X	X	X	X		4
S3-19	X	X				2
S3-20	X	X	X	X		4
S3-21	X	X		X		3

Claim No.	1	2	3	4	5	No. of Deficiencies
S3-22	X	X				2
S3-23	X	X				2
S3-24	X	X		X		3
S3-25	X	X		X		3
S3-26	X	X		X		3
S3-27	X	X				2
S3-28	X	X		X		3
S3-29	X	X		X		3
S3-30					X	1
Total	119	97	8	33	36	

SAMPLE RESULTS AND PROJECTIONS

The results of our review of the 120 Federal Medicaid transportation claims were as follows:

Sample Results and Recommended Financial Adjustment

Stratum Number	Claims in Universe	Value of Universe (Federal Share)	Sample Size	Value of Sample (Federal Share)	Improper Claims	Value of Improper Claims (Federal Share)
1. >\$0 thru \$50	336,712	\$ 14,143,222	60	\$ 2,576	55	\$2,231
2. >\$50 thru \$110	324,010	32,962,197	30	3,036	30	2,622
3. >\$110	505,279	75,483,921	30	4,485	28	3,714.50
Total	1,166,001	\$122,589,340	120	\$10,097	113	\$8,567.50

Projection of Sample Results

Precision at the 90-Percent Confidence Level

Point Estimate:	\$103,400,510
Lower Limit:	\$96,110,877
Upper Limit:	\$110,690,143
Precision Percent:	7.05 %

Sample Results and Set-Aside Amount

Stratum Number	Claims in Universe	Value of Universe (Federal Share)	Sample Size	Value of Sample (Federal Share)	Improper Claims	Value of Improper Claims (Federal Share)
1. >\$0 thru \$50	336,712	\$ 14,143,222	60	\$ 2,576	12	\$345
2. >\$50 thru \$110	324,010	32,962,197	30	3,036	9	414
3. >\$110	505,279	75,483,921	30	4,485	11	770.50
Total	1,166,001	\$122,589,340	120	\$10,097	32	\$1,529.50

Projection of Sample Results

Precision at the 90-Percent Confidence Level

Point Estimate:	\$19,384,681
Lower Limit:	\$12,130,322
Upper Limit:	\$26,639,040
Precision Percent:	37.42 %

STATE'S DOCUMENTS RELATED TO
THE CALCULATIONS OF THE AVERAGES

APPENDIX E
Page 1 of 4

112 C - 2
Medicaid Special Education
School Age

Average Frequency Per Week
based on 1779 Sample of NYC
School Age for 10/90-3/92

4275 ÷ 25 wks = 171/wk ÷ 75 Students = 2.28/wk/student
4225 ÷ 25 wks = 169/wk ÷ 682 Students = 2.48/wk/student
5750 ÷ 25 wks = 230/wk ÷ 101 Students = 2.28/wk/student

TOTAL ATTENDANCE
TOTAL ATT. / 2
number of student with SPRING or FALL attendance = 1695
(TOTAL ATT. / 2) / 1695 =

Source: MEGE.UGF (a database contains the
1779 School Age Spec Ed cases for 10/90-3/92.

Purpose: To determine the average frequency
per month for physical, speech &
Occupational Therapy

Scope: 10/90-3/92 to establish facts.

Conclusions: The average weekly frequency
based on IEP prescribed for Medicaid
eligible Students for the period 10/91-3/92
was as follows:

PT	2.28/wk
ST	2.48/wk
OT	2.28/wk

FREQUENCY
New York City

INTERIM FEE

~~CALCULATION~~ OF AVERAGE MONTHLY SERVICE FREQUENCY Page 2 of 4

FOR SPEECH, OCCUPATIONAL AND PHYSICAL THERAPIES

BASED ON SAMPLE OF 1990/91 SCHOOL YEAR

	AVERAGE SERVICES PER WEEK	STUDENTS SERVED	AVERAGE WEEKLY FREQUENCY	AVERAGE MONTHLY FREQUENCY (3.64 WKS/MONTH)
SPEECH THERAPY	1697	683	2.48	9.0 To B-15
OCCUPATIONAL THERAPY	230	101	2.28	8.3 To B-15
PHYSICAL THERAPY	171	75	2.28	8.3 To B-15

**CALCULATION OF THE AVERAGE NUMBER OF WEEKS
IN A SCHOOL CALENDAR MONTH**

**APPENDIX E
Page 3 of 4**

NYC

1992-93 SCHOOL YEAR

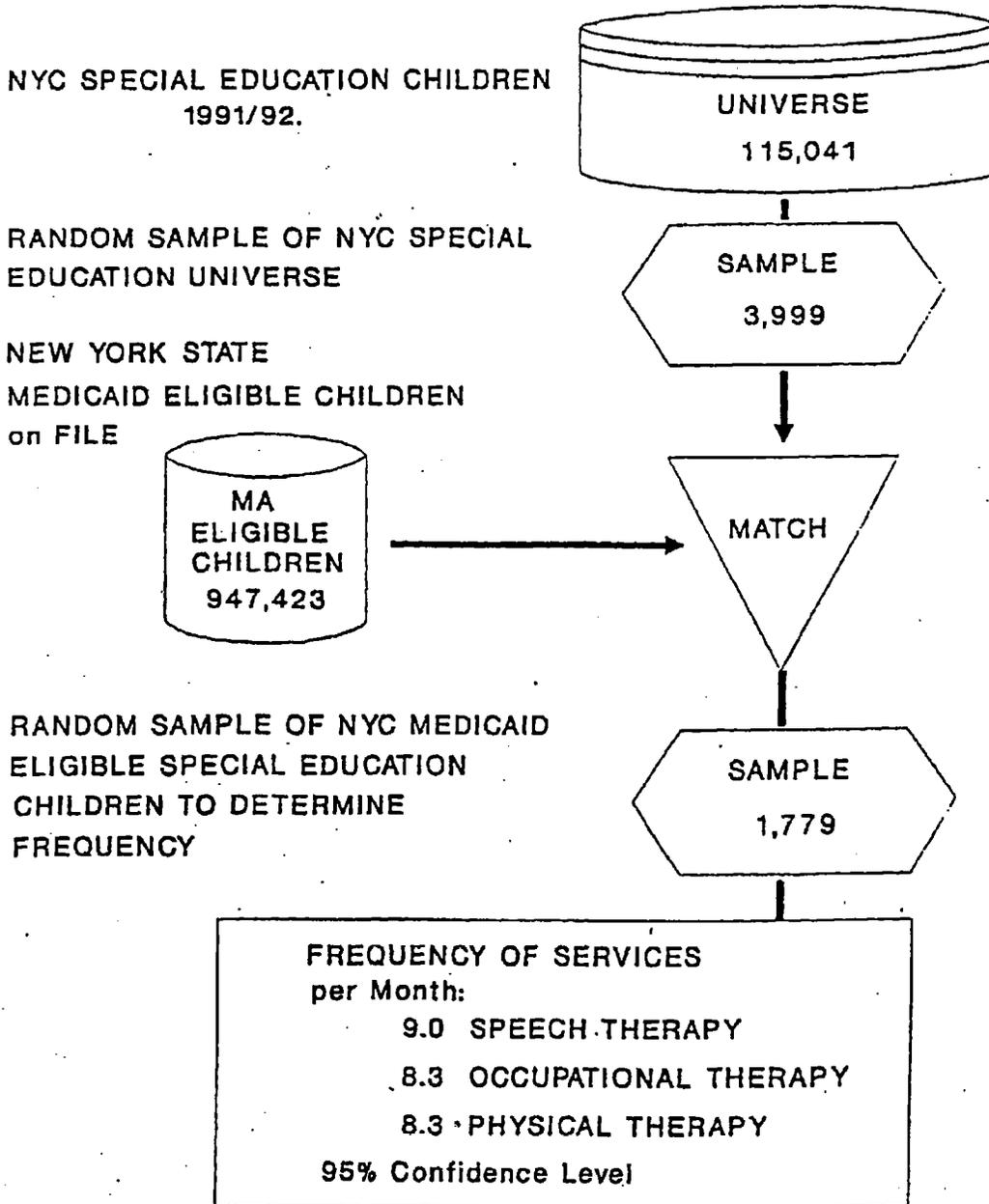
MONTH	# OF SCHOOL DAYS
SEPTEMBER	14
OCTOBER	20
NOVEMBER	18
DECEMBER	17
JANUARY	19
FEBRUARY	15
MARCH	23
APRIL	16
MAY	20
JUNE	20
TOTAL DAYS	182

AVERAGE WEEKS PER MONTH 3.64

(182 DAYS/10 MONTHS/5 DAYS PER WEEK)

PACKAGED COPY

SCHOOL AGE SAMPLE



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STATE OF NEW YORK APPENDIX F
DEPARTMENT OF HEALTH Page 1 of 45

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

February 14, 2005

Timothy J. Horgan
Regional Inspector General for Audit Services
Office of Inspector General
Department of Health and Human Services
Jacob K. Javits Federal Building
26 Federal Plaza
New York, New York 10278

Re: Draft Report Number A-02-03-01023 entitled "Review of Medicaid Transportation Claims Made By the New York City Department of Education"

Dear Mr. Horgan:

Enclosed is the response of the New York State Department of Health to the referenced draft audit report. For the reasons set forth in our response, the draft audit report should be withdrawn.

For more than a decade, local school districts in New York State, including New York City, have relied on Congress's promise that it would provide federal Medicaid monies to help fund health-related services to poor children with disabilities in our schools. Now, more than a decade after Congress made its promise, the Office of Inspector General (OIG) seeks repayment of nearly \$106 million from New York for transportation services lawfully provided by the New York City Department of Education (NYCDOE).

The vast majority of disallowances proposed in the report concern a misunderstanding regarding how NYCDOE billed for services rendered and OIG's requirement that transportation logs be maintained. The auditors determined that the claims should be disallowed because they incorrectly believe that NYCDOE billed based on an average number of services that were planned to be provided rather than the average of the actual services rendered. They also disallowed claims because they expected to find transportation logs to support the billings. Transportation logs, however, are not maintained and we believe that initiating this practice could compromise the safety of the children being transported, since bus drivers would be engaged in preparing documents at every stop, rather than attending to the children entering, exiting and remaining on the buses. Nothing in federal law or regulations supports this potentially unsafe documentation "requirement." In addition, the majority of the cases selected in the OIG sample are so dated that supporting documentation for the claims cannot be located. The draft findings would suggest that NYCDOE failed to appropriately transport children to school. Clearly this is not the case.

To the extent that policy issues remain between the State and Centers for Medicare & Medicaid Services, such as documentation of transportation services, we urge that these issues be resolved amicably through the program review process, rather than by disallowing millions of dollars in federal payments, which can only serve to diminish scarce Medicaid funding for necessary school-supportive health services.

Sincerely,



Kathryn Kuhmerker
Deputy Commissioner
Office of Medicaid Management

Enclosure

EXECUTIVE SUMMARY

1. Overview

A. Summary Statement of New York's Response

The Office of Inspector General (OIG) of the U.S. Department of Health and Human Services has issued a draft audit report that proposes a disallowance of \$105.6 million in federal Medicaid payments for transportation services provided to poor children with disabilities by the New York City Department of Education (NYCDOE) during a period encompassing nearly eight years (September 1, 1993 through June 30, 2001). OIG "set-aside" an additional \$5 million in claims to be resolved between the Centers for Medicare and Medicaid Services (CMS)¹ and the State. As detailed in the body of our audit response, New York objects to this draft audit report in the strongest possible terms and requests that it be withdrawn for the following reasons:

- **Fundamental Flaws in Audit Concept and Design** -- The draft audit report's finding that \$105.6 million is due the federal government is based upon a minuscule statistical sample (120 out of over 1.1 million claims).
- **Inconsistency with Audit Approach in Other States** – In this audit of transportation services, OIG elected to review almost eight years of claims submitted by the School Supportive Health Services and Preschool Supportive Health Services programs in New York (jointly referred to herein as "SSHS"). In sharp contrast, the audit periods used in comparable audits in other states focused only on more recent claims histories.
- **Inappropriate Application of a "Medical" vs. "Educational" Model** – Consistent with the development of an Individualized Education Program (IEP) for each disabled child under the federal Individuals with Disabilities Education Act (IDEA), schools have been providing services covered under the SSHS program since 1975. When schools began to bill Medicaid for these services in 1993, it was both reasonable and consistent with Congressional intent that these services were documented and billed by schools using an "educational" model. Therefore, application of a "medical" model of service delivery and documentation, such as that used for hospitals, is patently unfair to our schools. Once OIG applies the appropriate educational model (or even a reasonable interpretation of a medical model), a substantial portion of the sampled claims would meet federal requirements.

B. General History

In 1988, Congress enacted legislation to encourage state and local education agencies across the nation to access federal Medicaid reimbursement for health-related services for disabled children. In New York State, such federal cost-sharing meant that 50% of the Medicaid cost for services would be borne by the federal government, with the remaining 50% to be paid for equally by the State and local governments.

¹ Formerly the Health Care Financing Administration (HCFA) and, for ease of reference, referred to throughout as CMS.

The new legislation provided a critical source of funding for New York's local school districts and pre-school programs, which are mandated under the IDEA to provide disabled children with necessary health-related services in the school setting. Prior to that time, school districts and pre-schools relied largely on local sources of income to pay for these costly services. This placed a tremendous economic burden on them.

In 1995, New York received formal federal approval of the SSHS program. The federal approval was retroactive to May 1992, and permitted school districts to bill for services back to April 1990. It is clear that Congress intended federal Medicaid funds to be used to assist states in the provision of medically necessary health services in an educational setting, consistent with IDEA. Congressional intent is evident in the amendments included in the Medicare Catastrophic Coverage Act of 1988, which amended Title XIX of the Social Security Act by adding a new Section 1903(c) [42 U.S.C. §1396b(c)]:

Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act.

C. Billing for Transportation Services under the "Educational" vs. "Medical" Model

In keeping with Congressional intent that Medicaid be used to support medically necessary services required by a child's IEP, school districts and counties that operate pre-school programs began billing for SSHS services, including transportation of disabled children. This is notable for two important reasons. First, it meant that local educational agencies would finally begin to receive Medicaid payments for costly services that they had been mandated to provide under law since 1975. Second, in order to receive these benefits, school districts would have to learn the technical recordkeeping and billing requirements of Medicaid – one of the most complex programs in the nation. The proposed OIG disallowances for transportation services are fundamentally flawed because both OIG and CMS have failed to recognize and account for the way in which educational systems legitimately document these services.

Until July 1, 1999, transportation by regular school bus was recognized by CMS as a Medicaid-reimbursable service when provided to a disabled child on a day that the child received a medical service pursuant to the IEP. While there was recognition by CMS that an educational model of transport was appropriate, there has been a puzzling failure by CMS to recognize the standard educational model of documenting that transport. Most of the claims proposed to be disallowed by the OIG are challenged on the grounds that school bus drivers in New York City have not maintained a running log of every child that gets on and off the school bus. Applying this "medical model" approach to public school transportation would be not only unreasonably burdensome but would threaten the health and safety of school children as well.

The negative impact of this bus log requirement is obvious. It would require each bus driver to manually document every single student getting on and off each bus. The requirement for maintenance of this type

of documentation, a requirement found in neither statute nor regulation, would add considerable time to each bus run and distract the driver from his or her most important task – maintaining the safety of the children on the bus. It must be noted that this requirement could not be applied only to those students receiving IDEA services who are in receipt of Medicaid; to do so would be to clearly signal to all which students are in receipt of Medicaid and have a disability of some kind, a clear violation of Medicaid, IDEA and HIPAA confidentiality standards.

The vast majority of students are transported to school in a school bus operated by or under contract with the NYCDOE; it is highly unlikely that any significant number of Medicaid-eligible children were transported by their parents to school in some other way. Despite this, OIG has proposed a disallowance of virtually the entire sample. OIG's attempt to re-claim millions of Medicaid dollars based on its speculation that disabled children *might* have taken alternative forms of transportation to or from school on a particular day – despite being scheduled for pick-up and drop-off on a bus route, being in attendance in school and receiving a medical service on that day – should not give rise to such a massive fiscal disallowance. At most, any fiscal disallowance should be a small percentage of the universe of payments for transportation to account for occasional instances where a disabled student may have taken alternative transportation to or from school.

D. Audit History

In the fall of 2001, the federal Department of Justice (DOJ) and the OIG initiated an investigation of three New York school districts – Ogdensburg, Ithaca and Elmira – as a result of a federal False Claims Act “whistleblower” action initiated by a service provider. This investigation appears to have provided the impetus for this audit as well as five additional audits of SSHS by OIG. The six audits (including this one) address the following SSHS services:

- Speech pathology services for all schools/counties other than New York City, Jefferson County, Ogdensburg, Ithaca and Elmira. The audit covers claims for September 1, 1993 through June 30, 2001.
- Speech pathology services for New York City only. The audit covers claims for September 1, 1993 through June 30, 2001.
- Transportation services for all schools/counties other than New York City, Jefferson County, Ogdensburg, Ithaca and Elmira. The audit covers claims for September 1, 1993 through June 30, 2001.
- Transportation services for New York City only. The audit is the subject of this response and covers claims for September 1, 1993 through June 30, 2001.
- Retroactive claims for all schools/counties other than New York City, Jefferson County, Ogdensburg, Ithaca and Elmira. The audit covers claims for April 1, 1990 through August 31, 1993.
- Retroactive claims for New York City only. The audit covers claims for April 1, 1990 through August 31, 1993.

The current audit was conducted by OIG using a sample of 120 claims for services provided from September 1993 through June 2001. The draft audit report from OIG contends that none of the 120 claims sampled was in accordance with all federal and State requirements. They determined however,

that while 105 of the claims were unallowable, 12 claims were partially unallowable, and others should be set aside for consideration by CMS and the State.

2. Policy Issues

Since the inception of the IDEA, school districts across New York State have been providing essential health-related services to disabled children consistent with federal requirements. The draft audit report makes no serious claim that the NYCDOE routinely failed to provide transportation of disabled children for necessary medical services. Instead, the proposed audit disallowance of \$105.6 million is due largely to 1) a misunderstanding of how NYCDOE billed Medicaid for providing services and 2) compliance issues associated with technical documentation requirements. OIG seeks the return of millions of dollars for what it believes are record-keeping deficiencies and a misunderstanding – not because NYCDOE failed to provide the services for which they billed. Such an action by the federal government runs contrary to the stated intent of Congress and the President that disabled children receive the health-related services they need to fulfill the requirements of their IEP's, and that the use of Medicaid funds to support these services should in no way be restricted or prohibited.

To facilitate the administration of the SSHS program, the New York State Department of Health (DOH)² evaluated the costs of providing these services to students with disabilities and developed a monthly fee for each service, with the exception of evaluations and special transportation. Evaluation fees are set per evaluation. Special transportation is reimbursed on a per diem basis, representing a round trip cost.

Averages based on a sample of 1,779 NYC special education students were used to determine the monthly service fees. A minimum of two services per month is required for a school district to bill the monthly fee. Transportation is not billed on a two services per month minimum; rather, it is billed on average monthly encounters.

As more fully set forth below, OIG's misunderstanding of, and failure to credit, the monthly average transportation billing methodology is a major contributing factor to the flawed draft audit report.

New York understands the importance of ensuring that its receipt and use of Medicaid funds is consistent with federal intent, as well as statutory and regulatory requirements. New York is steadfast in its commitment to ensure compliance with these requirements, and we appreciate the importance of vigilant monitoring and oversight to ensure this commitment is fulfilled. However, as discussed below, the ability of the State and our SSHS providers to ensure full compliance with documentation requirements has been affected by a variety of factors outside of our control.

A. Inconsistent/Contradictory Federal Guidance

The initial years of implementation of any program can be difficult, and the SSHS program was no exception. Compliance with documentation and billing requirements was even more difficult for schools and counties because they are primarily educators, rather than traditional health-care providers. Further, while traditional health-care providers are typically required to maintain records in a manner that overlaps

² Prior to October 1996, the Medicaid program was administered in New York by the Department of Social Services. For ease of reference, "DOH" will be used throughout.

with Medicaid requirements. schools and county pre-school programs had no similar documentation experience. In fact, they were accustomed to the documentation requirements of the IDEA-based educational model under which they had operated for at least 15 years before Medicaid was made available by Congress to pay for such services.

While DOH and the State Education Department provided extensive training in billing and document retention, New York's efforts have been hampered by the inconsistent and often contradictory advice provided by federal agencies. This problem is by no means unique to New York. The lack of federal guidance was also criticized in a series of reports produced by the federal General Accounting Office (GAO).

In his 2002-03 budget proposal, President Bush highlighted this problem, stating: "In past years, billing inconsistencies have plagued the program because the federal government has never articulated clear guidance. In 2002, the Administration will release guides that will address all aspects of school-based Medicaid billing." Despite the President's pronouncement, CMS has yet to provide guidance that is entirely consistent with law and its own prior guidance, or that will aid school districts across the country in maintaining appropriate records.

B. Delays in Federal Policy Responses and Program Reviews

Like other states, New York's ability to assist school districts and counties in properly claiming Medicaid reimbursement has been compromised by the federal government's delay in responding to questions involving the interpretation of various federal regulatory requirements. Indeed, prior to this audit, New York advised CMS that federal guidance mandating that providers retain transportation logs is inconsistent with federal law requiring only that providers maintain records to support their Medicaid claims, and imposes a new standard. To date, however, the federal government has failed to address this important issue and proposes to take millions of dollars in disallowances against the State for its alleged failure to meet this inappropriate standard.

This problem has been compounded by the federal government's failure to audit the SSSH program until recently. As a result of this delay, New York's SSSH providers have now been asked to document services that were rendered well over a decade ago. While the federal government argues that no statute of limitations applies to the auditing of Medicaid claims, that position is unrealistic and inequitable to states such as New York that reimburse providers for services validly rendered and then must wait until OIG audits those claims before they can challenge federal interpretation and guidance on issues such as documentation requirements for transportation services.

In addition, under New York State regulations, Medicaid providers are only required to maintain records supporting their Medicaid payments for a period of six years from the date of the service. Despite its knowledge of this requirement, and despite federal regulations that require a state to retain records for a period of three years from the date of submission of a final expenditure report [42 CFR 433.32(b)], OIG now attempts to hold New York fiscally responsible for alleged record-keeping errors that date back over a decade.

3. Audit Methodology and Scope

A. Inappropriately Small Sample Size

This audit of transportation services was conducted by OIG using a small sample totaling only 120 claims out of over 1.1 million claims in the audit period. While sampling is routinely used in audits as a way to reduce audit time, the sample sizes in this case cannot reasonably support an extrapolation to the universe of payments and a disallowance of nearly \$106 million dollars.

B. Inconsistency with Audit Approach in Other States

Recently, OIG has conducted a number of audits of SSHS programs in other states, including Massachusetts, Connecticut and Oregon. However, the audit approach taken by OIG in New York State is significantly different than that in other states, and has resulted in a proposed disallowance that is excessively and disproportionately large. In Massachusetts, OIG conducted audits of eight separate city school districts' current years' worth of Medicaid claims. Comparatively, the audit of NYCDOE used a minuscule sample size taken from claims for services that were provided as early as 1993, and OIG applied much higher standards of documentation. Had the OIG conducted this audit of NYCDOE claims as they had in the city school districts in Massachusetts, there would have been few, if any, disallowances based on lack of documentation. Moreover, in June 1999, New York State instructed school districts to stop billing for transportation services until new fees were developed and made available on the MMIS system. Schools were permitted to resume billing for transportation in May 2001. Since the universe of claims selected for audit by OIG had comparatively fewer recent claims as a result of this billing moratorium, the sample would naturally skew toward the older claims thus exacerbating the problems associated with documenting the older services. A review of current claims would have resulted in a far better outcome in locating supporting documentation than what is evidenced by this unsupported audit approach by OIG.

The audits that OIG conducted in other states with fee-for-service SSHS programs involved claims submitted during a much shorter period of time than in New York. These other audits typically reviewed program information for claims submitted during a one-year period – not eight years, as in New York. The audits in other states also focused on more recent periods of time (i.e., the most recent fiscal year prior to the audit), rather than going back to 1993, as in New York. This audit methodology unique to New York has substantially disadvantaged the State and NYCDOE. The longer period covered by the audit and the examination of claims that are far older than the six-year period for record retention that New York requires has made it much more difficult for school districts and pre-school programs to demonstrate their full compliance.

In addition to the inconsistencies in the length of time audited and the age of claims examined, OIG's statistical sampling methodology in New York is extremely problematic. In three other states where OIG used a sampling methodology³, the sizes of the samples used to review claims were much larger than those in New York when comparing the sample size to the total number of claims in the other states' universes of payments.

³ The three states are Massachusetts, Connecticut and Oregon. Information to support this statement was obtained from HHS's website.

4. Conclusion

OIG's audit of Medicaid claims for transportation services that were provided by the NYCDOE should be withdrawn and the other planned audits cancelled. As will be described in the detailed audit response below, the vast majority of the audit findings were the result of inappropriate regulatory interpretations by the federal government, the inaccessibility of supporting documentation due to the age of the cases in the sample and the fundamental flaws in the audit's design.

The audit fails to recognize the essential foundation upon which the SSHS program is based: Congress intended to assist school districts with the provision of services required under IDEA and expected that the services would be provided as determined by each local educational agency's Committee on Special Education, in accordance with the provisions of IDEA.

Finally, it needs to be emphasized that the draft audit raises no question that essential SSHS services to disabled children were provided, and that disabled children received those services. Instead, a massive disallowance is proposed that would have a paralyzing impact on New York and its schools based upon an alleged failure to meet questionable and highly technical documentation requirements. Because all necessary services were provided, and because of the devastating impact that OIG's flawed audit would have on New York State and the New York City Department of Education, this draft audit report should be withdrawn.

RESPONSE TO DRAFT AUDIT REPORT

1. General Responses

A. NYCDOE Billed for Transportation Encounters Based on a Formula Derived from Averages of Related Services Provided

Because of NYCDOE's size (with 1,075,710 students enrolled in 1,207 schools, it is the largest school district in the United States) DOH determined to permit billing for transportation services based on a formula derived from determining the number of services provided to children based on the severity of their disabilities and the setting in which the services were provided. DOH determined average service usage for a particular category (e.g., nine days per month, on average, where a student received a billable service) and instructed NYCDOE to submit transportation claims for nine transportation encounters during the month. While some students may have received fewer than the nine transportation services in that month, a roughly equal number would have received more than nine transportation services. The overall expenditures for transportation using the monthly averages methodology would not be greater than the expenditures that would have been made using actual encounters, particularly since DOH used a conservative method for determining the averages. NYCDOE did not bill for transportation services that it planned to provide during a month; it billed based on the monthly averages methodology.

B. Transportation Logs

The OIG is disallowing transportation claims, not because the services were not rendered but because they cannot find transportation logs (or similar contemporaneous documentation) to substantiate the billings. NYCDOE did not and does not maintain transportation logs. The idea that school bus drivers should log each child entering and exiting a vehicle is absurd. NYCDOE has been able to locate some roster/schedule information that identifies the specific service rendered, the date and time the service was rendered, who rendered the service, and the setting (a vehicle). The amount of time it took to render the service is not relevant. This information should be acceptable documentation for the services. Locating all of this information, however, has proven to be difficult because of the advanced age of the cases in the OIG audit sample.

C. Record Retention Requirements

In its draft audit report, OIG notes that federal regulations (42 CFR 431.17) require that the Medicaid state agency maintain or supervise the maintenance of records necessary for the proper and efficient operation of the State Plan. In accordance with that section, New York adopted a six-year general record retention requirement for all Medicaid providers. While in other states OIG either audited SSHS claims for the most recent fiscal year, or only audited claims that easily fell within each state's own record retention period, OIG went beyond New York's six-year retention period to examine claims, disallow services, and extrapolate the disallowances to a universe of payment far in excess of the retention period. Interestingly, while OIG cites one federal regulation related to maintenance of records, it fails to cite another federal regulation related to record retention; 42 CFR 433.32(b) requires a state to retain records for a period of three years from the date of submission of a final expenditure report. OIG's actions in this

regard have placed New York and its providers at a distinct disadvantage. The draft findings are artificially high for reasons related solely to the difficulty any organization has in retrieving very old records and unrelated to whether services were provided to children.

D. Federal Guidance on Billing for Transportation Services

The draft audit report cites a series of federal pronouncements on SSHS transportation services as a basis for stating that federal guidance on this topic was clear and consistent. In fact, it is apparent that CMS was developing guidance on an *ad hoc* basis and that its interpretations as to the availability of transportation services to disabled students and the requirements for billing Medicaid for such services were in a constant state of flux.

Federal guidance on Medicaid reimbursement for transportation to school-based health services began with Medicaid State Operations Letter #93-67, a letter not cited by OIG in its draft report. That letter states, in part:

Medicaid funds are not available for reimbursement for transporting Medicaid recipients to schools on a normal school day, even though school-based health services are provided in the school during part of the day. Education is the primary purpose for attending school; any medical services rendered in schools are secondary.

No exception was made for services provided under IDEA in that early Operations Letter. Yet, less than a year later, CMS reversed its opinion concerning Medicaid reimbursement for transportation of disabled students under IDEA, as evidenced by Medicaid State Operations Letter #94-06, which was cited in the draft audit report.

Operations Letter #94-06 created confusion for the State and school administrators by requiring that regular bus transportation be included on a student's IEP in order to be reimbursable by Medicaid. This pronouncement reflects CMS's misunderstanding of the requirements of the IDEA and the required content of a student's IEP. Under IDEA, regular school transportation, as opposed to specialized transportation, is not required to be included in a child's IEP. This misstatement by CMS of another federal agency's requirements resulted in schools stamping IEP's with the notation "transportation" in order to try to meet this new "requirement."

The August 1997 Technical Assistance Guide cited in the draft audit report contains only a few pages on transportation⁴. The subjects covered by this section of the guide are "Transportation as an Optional Service," "Transportation as an Administrative Expense," and "Medical Coverage of Transportation to School-Based Health Services." Nowhere in this guide did CMS mention the use of so-called "transportation logs." Under the general documentation requirements at page 39, the guide states:

A school, as a provider, must keep organized and confidential records that detail client specific information regarding all specific services provided for each individual recipient of services and

⁴ Pages 53-56.

retain those records for review... Relevant documentation includes the dates of service, who provided the services, where the service was provided, any required medical documentation related to the diagnosis or medical condition of the recipient, length of time required for service, if relevant, and third party billing information.

Again, the guide's general maintenance-of-records section contained no mention of "transportation logs" (or similar documentation) as a requirement for documenting transportation services. In 1994, New York had proposed the use of alternative documentation of transportation services and set forth how that documentation would meet CMS's written documentation requirements while preserving the confidentiality of recipient records. Nevertheless, CMS had refused to reverse its position that only transportation logs could be used to document transportation services. CMS's subsequent failure to include its requirement for transportation logs in its supposedly comprehensive guide to States is curious and reflects either CMS's discomfort with its position or a tacit acknowledgement that there is more than one way to establish that a service was provided. In any event, New York continues to maintain that the continued insistence on the maintenance of transportation logs is bad policy and is wrong.

New York continued its objection to maintenance of transportation logs as the only form of documentation of transportation services, since there were concerns about school bus drivers taking attendance of students as they entered and exited buses instead of monitoring the students. Further, since CMS had reversed itself previously on transportation issues and this appeared to be an evolving area at the federal level, New York, while waiting for CMS to make a final decision regarding documentation, continued to document transportation services in accordance with CMS's written documentation requirements.

2. Specific Responses

Attached hereto as Exhibit A please find a schedule containing bus roster information for 110 of the students in the OIG sample. Attached hereto as Exhibit B please find a matrix describing additional documentation for select cases in the sample and the bases for overturning the proposed disallowances of these cases. Attached hereto as Exhibit C please find the documentation described in Exhibit B. We have organized our specific responses in Draft Report Category order.

Category A – No Documentation

Attached as part of Exhibit C, please find additional documentation for certain cases in the sample as described in Exhibit B. This documentation supports these claims; the "no documentation" findings should be withdrawn.

Categories B and C – No Date-Specific Service Delivery Documentation and Lack of Complete Assurance That Services Were Rendered

These claims are proposed for disallowance because encounter documentation, date-specific delivery materials or transportation logs could not be located to support the claims. The primary reason for the lack of service documentation is the age of the cases in the sample. Had the OIG selected a sample of current Medicaid claims instead, the claims would be supported by the type of date-specific

documentation being sought. In any event, rosters/schedules have been found for 118 out of 120 cases, an alternative method of substantiating the claim.

As stated earlier in this response, nowhere in federal regulations or guidance is it stated that school districts *must* maintain transportation logs. We believe that the records maintained by NYCDOE meet federal requirements for documentation of transportation services. CMS's guidance on documentation of transportation (letter of July 29, 1994) stated that the following information must be maintained: the specific service rendered; the date and time the service was rendered; who rendered the service; the setting within which the service was rendered; and the amount of time it took to render the service, if relevant. The date of service is on the Related Student Service Attendance (RSSA) card and the time for each student's pick-up and drop-off are part of the transportation schedules. The rosters or schedules provided by NYCDOE clearly show the route number, the vehicle type, and the school the child attends every day (see Exhibit A). The setting is a vehicle provided by the NYCDOE. The length of the bus trip is not relevant to Medicaid reimbursement for transportation services.

New York Education Law §3635 mandates that transportation be provided to students. To support these findings, OIG would have to conclude that NYCDOE failed to fulfill this State mandate solely because it failed to provide transportation logs.

16 of the disallowed claims in this category were for services provided beyond the State's 6-year record retention requirement and should not have been included in this audit. Moreover, 39 disallowed claims in this category were beyond the federal 3-year retention requirement and should have not been included in this audit.

Category D – No Child's Plan/Family Plan

Findings in this category amply illustrate the problems associated with OIG's audit period. Five of the sample cases were from 2000 or 2001. Each of the IEP's for these sample cases was provided to OIG by the NYCDOE. Any problems with IEP documentation relate only to the older cases in the sample.

Attached as part of Exhibit C, please find additional documentation for certain of the cases in the sample as described in Exhibit B. This documentation supports these claims; the "no plan" findings should be withdrawn.

Category E – Transportation Services not Included in Child's Plan/Family Plan

The only explanation for the transportation box not to be checked on the IEP is clerical error. The advanced age of the cases selected for the sample prevents NYCDOE from retrieving the notice from the CSE to the transportation unit setting up the provision of service.

Attached as part of Exhibit C, please find additional documentation for certain of the cases in the sample as described in Exhibit B. This documentation supports these claims; the "transportation not included" findings should be withdrawn.

Category F – Daily Round Trips Claimed in Excess of Days When Health Services Were Rendered

Most of the findings in this category were the direct result of the age of the cases selected for audit and the consequent inability of NYCDOE to locate the RSSA cards that show the date the student received a Medicaid-related service.

Attached as part of Exhibit C, please find additional documentation for certain of the cases in the sample as described in Exhibit B. This documentation supports these claims; the “excessive trips” findings should be withdrawn.

Category G – No Assurance that a Minimum of Two School Health Services Were Rendered During The Month

The draft audit report states that for 79 sampled claims, the school health providers could not supply documentation to show that two school health services were provided in the month that transportation was billed. It is accurate to say that our State Plan for Medicaid requires that a minimum of two services be provided within the month in order to claim Medicaid reimbursement for speech therapy, physical therapy, occupational therapy, nursing and psychological counseling. However, a minimum of two services is *not* required for billing transportation. Pursuant to New York’s State Plan Amendment (SPA) 92-42, at least two services are required to bill for a monthly fee, but under the plain language of the SPA, no such requirement exists for an encounter-based transportation fee. The provision of transportation is billable even if the underlying health service is not billable because the district did not provide the health service at least two times in the month. This disallowance category reflects a clear misunderstanding of the CMS-approved claiming and payment provisions for SSHS transportation services and should be withdrawn in its entirety.

CONCLUSION

Based on this audit’s flawed audit protocols, which are described in greater detail in the body of our response, the draft audit report should be withdrawn in its entirety. OIG’s findings suggest that NYCDOE failed to provide the necessary transportation for its disabled children an astonishing 100% of the time over an eight-year period. This is obviously not the case, yet OIG demands repayment of over \$105 million of federal payments for these services, based on alleged record-keeping errors and its erroneous conception of how claims were submitted for payment. This audit of the nation’s largest school district and largest Medicaid program is being performed in a manner inconsistent with the audits of any other school district in any other state and is designed to artificially maximize the federal government’s recovery of monies lawfully paid to New York. The large majority of the OIG sample consists of claims that are beyond either the federal or the State record retention requirements. As a direct result of OIG’s actions, New York State is faced with massive reductions in its critical stream of federal funding, thereby jeopardizing local school districts’ funding of federally mandated health services for disabled children.

<OIG NOTE>:

**OIG deleted all names contained within the State's
Exhibit A.**

Exhibit A

**OIG Audit of NYC Transportation Claims
Bus Roster Information**

We are submitting Bus Roster information for 110 students from the audit of transportation claims from NYC. These are all school age students whose transportation is arranged by New York City Department of Education - Office of Pupil Transportation (OPT). There were two school age students that OPT was unable to locate their bus roster information at this time, they will continue to look for the records.

The bus transportation information for the preschool students comes from New York City Department of Transportation and is being provided to you under a separate cover for each preschool student.

Revised	Last Name	First Name	DOB	Service Month	District	School	AMB CD	G CODE	Agency	Rate
Aug11	003584	090193	75	P71	N	WBK-SB	09/20/2003		VARITY TRAVEL INC	8.40
Aug11	090193	090193	75	P71	N	WBK-SB	09/20/2003		VARITY TRAVEL INC	8.40
Aug11	090193	090193	75	P71	N	WBK-SB	09/20/2003		VARITY TRAVEL INC	8.40
Aug11	112784	010194	78	H45	N	WBK-SB	09/20/1993		VARITY TRAVEL INC	8.40
Aug11	083487	020194	75	P05	N	WBK-SB	09/20/1993		VARITY TRAVEL INC	8.40
Aug11	054290	040194	21	P95	N	WBK-SB	09/20/1993		VARITY TRAVEL INC	8.40
Aug11	025085	040194	21	P23	N	WBK-SB	09/20/1993		VARITY TRAVEL INC	8.40
Aug11	122865	040194	75	P23	N	WBK-SB	09/20/1993		VARITY TRAVEL INC	8.40
Aug11	032088	040194	21	P03	N	WBK-SB	11/04/1993	K27	STUDENT B... SERVICE	8.40
Aug11	090790	060194	19	P174	N	WBK-SB	06/27/1993	8555	STUDENT B... SERVICE	8.40
Aug11	027085	060194	75	P05	N	WBK-SB	06/27/1993	8555	STUDENT B... SERVICE	8.40
Aug11	111485	090194	78	M15	N	WBK-SB	09/20/1994	1812	STUDENT B... SERVICE	8.40
Aug11	201439	100194	08	O65	N	WBK-SB	09/20/1994	1551	STUDENT B... SERVICE	8.40
Aug11	102989	100194	22	J14	N	WBK-SB	09/20/1994	K256	STUDENT B... SERVICE	8.40
Aug11	102987	110194	10	J18	N	WBK-SB	11/14/1994	K256	STUDENT B... SERVICE	8.40
Aug11	022988	120194	28	P39	N	WBK-SB	09/20/1994	M350	STUDENT B... SERVICE	8.40
Aug11	020185	010195	11	O658	N	WBK-SB	09/20/1994	1071	STUDENT B... SERVICE	8.40
Aug11	106186	010195	36	O400	N	WBK-SB	09/20/1994	1520	STUDENT B... SERVICE	8.40
Aug11	150584	010195	75	P02	N	WBK-SB	09/20/1994	M357	STUDENT B... SERVICE	8.40
Aug11	101185	020195	09	M45	N	WBK-SB	09/20/1994	M357	STUDENT B... SERVICE	8.40
Aug11	130184	020195	09	M45	N	WBK-SB	09/20/1994	M357	STUDENT B... SERVICE	8.40
Aug11	031884	030195	78	H630	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	072085	030195	78	H630	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	080180	030195	75	P05	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	081588	030195	75	H455	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	080775	030195	20	J071	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	110987	110195	25	E27	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	030786	110195	75	P12	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	020185	020196	28	P42	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	052685	030196	06	O070	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	120179	040196	75	J047	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	031088	040196	75	H455	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	120385	060196	06	L108	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	050485	060196	75	P18	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	111389	100196	10	P037	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	101490	110196	05	P13	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	032784	110196	27	P145	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	017185	120196	78	H470	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	040985	010197	78	H440	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	020588	010197	07	J140	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	081383	010197	17	P138	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	071088	010197	17	J45	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	050784	020197	78	H600	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40
Aug11	051487	020197	75	P71	N	WBK-SB	09/20/1994	1177	STUDENT B... SERVICE	8.40

Reviewer	Last Name	First Name	DOB	Service Month	District	School	AMB CO	G CODE	MED ALLI	ITEM	START DA	ROUTE	VEND CD	VEND NAME	SCH CD	SCHOOL	SEQUENC	SESS BT	SESS EN
Aud11			121539	02/01/97	78	H405	L			WBK-SB	09/05/1996	K027	CC	CARAVAN COACH CORP.	13054	PS 54	39	8:40	3:00
Aud11			815899	03/01/97	14	K049	N			WBK-SB	08/05/1996	K050	CC	CARAVAN COACH CORP.	14016	PS 16	29	8:30	3:00
Aud11			92160	03/01/97	78	H690	N			WBK-SB	09/05/1996	K228	BR	BRIGHTON BUS SERVICE	21238	IPS 238	11	8:40	3:00
Aud11			040777	04/01/97	75	P373	N			WBK-SB	09/27/1996	K035	CC	CARAVAN COACH CORP.	27480	P373	23	8:40	3:00
Aud11			892495	05/01/97	78	H490	N			WBK-SB	09/18/1996	K052	CC	CARAVAN COACH CORP.	14094	IPS 84	16	8:30	3:00
Aud11			022883	05/01/97	75	P721	N		G	WBK-SB	09/04/1996	X007	JO	JOCI BUS COMPANY, INC.	8192	IS 192	11	8:40	3:00
Aud11			062883	05/01/97	75	P811	N			WO-SB	09/04/1996	Q221	AY	AMBOY BUS COMPANY, INC.	30227	IS 227	5	8:40	3:00
Aud11			072685	05/01/97	75	P373	N		G	WBK-SB	09/05/1996	K032	CT	CARAVAN TRANSIT INC.	14297	PS 257	40	8:30	3:00
Aud11			022883	05/01/97	78	H435	N												
Aud11			112886	06/01/97	75	P501	N			WBK-SB	09/05/1996	K328	BR	BRIGHTON BUS SERVICE	16026	IPS 26	43	8:40	3:00
Aud11			911495	06/01/97	78	H458	N			WM-MW	09/03/1996	M598	JZ	JOFAZ TRANSPORTATION INC.	4072	PS 72	2	8:30	3:00
Aud11			081787	06/01/97	14	I318	N			WBK-SB	09/05/1996	K049	AK	AMBOY BUS COMPANY, INC.	14016	PS 16	30	8:30	3:00
Aud11			020592	08/01/97	12	P106	N			WBK-SB	09/04/1997	X261	PW	PIONEER TRANSPORTATION CORP.	12008	CS 6	6	8:40	3:00
Aud11			060392	09/01/97	07	P040	N		G	WBK-SB	09/29/1997	X230	AX	AMBOY BUS COMPANY, INC.	7040	IPS 40	16	8:20	2:50
Aud11			070489	09/01/97	17	I320	N			WBK-SB	09/18/1997	K118	BR	BRIGHTON BUS SERVICE	17022	PS 22	6	8:40	3:00
Aud11			020889	09/01/97	18	J211	W			WBK-HL	09/04/1997	K432	VQ	VARSITY TRANSIT INC.	22222	PS 222	1	8:40	2:40
Aud11			032979	10/01/97	75	P811	W			WBK-HL	09/04/1997	K445	CH	CHILDRENS CHARTER SERVICE	8101	PS 01	9	8:20	2:40
Aud11			501577	11/01/97	75	P721	N			WBK-SB	09/04/1997	K198	AK	AMBOY BUS COMPANY, INC.	21907	P721	17	8:40	3:00
Aud11			032166	11/01/97	75	P504	N			WO-MW	10/28/1997	O353	LR	LORINDA ENT. LTD.	30010	MS 10	6	8:00	2:50
Aud11			121291	11/01/97	75	P771	N			WBK-SB	11/13/1997	K321	LG	LOGAN BUS COMPANY INC.	21488	P771	6	8:40	3:00
Aud11			010690	12/01/97	24	P229	L			WO-HL	09/04/1997	O415	CS	CONSOLIDATED BUS TRANS, INC.	25107	PS 107	9	8:40	3:00
Aud11			021692	01/01/98	75	P004	N			WBK-SB	09/04/1997	K090	AK	AMBOY BUS COMPANY, INC.	16450	P004	5	8:40	3:00
Aud11			110687	01/01/98	15	P131	N			WBK-SB	09/04/1997	K161	BO	BOBO TRANSIT, INC.	15131	PS 131	24	8:45	3:00
Aud11			010191	01/01/98	20	P180	N			WBK-SB	09/04/1997	K343	AK	AMBOY BUS COMPANY, INC.	20164	PS 164	11	8:40	3:00
Aud11			061693	02/01/98	75	P037	N												
Aud11			171987	03/01/98	11	J144	N			WBK-SB	09/04/1997	X021	JO	JOCI BUS COMPANY INC.	11178	PS 178	1	8:20	2:30
Aud11			111387	03/01/98	78	H400	N			BM-MW	03/03/1998	M666	SI	STATEN ISLAND BUS COMPANY	1450	P034	7	8:40	3:00
Aud11			041191	03/01/98	11	P096	N		G	WBK-SB	09/04/1997	X038	JO	JOCI BUS COMPANY INC.	11178	PS 178	26	8:20	2:30
Aud11			092287	03/01/98	20	X62	N		G	WBK-SB	02/12/1999	K243	BR	BRIGHTON BUS SERVICE	22222	PS 222	2	8:40	2:40
Aud11			070690	03/01/98	15	P035	N			WBK-SB	09/04/1997	K098	AK	AMBOY BUS COMPANY, INC.	16035	PS 35	38	8:40	3:00
Aud11			042287	04/01/98	78	A932	N			WBK-SB	09/04/1997	K195	AK	AMBOY BUS COMPANY, INC.	21215	PS 215	28	8:40	3:00
Aud11			021385	04/01/98	75	P721	N			BM-MW	09/25/1997	M714	UE	UNITED SCHOOL EXPRESS, INC.	6430	P0704	5	8:00	2:10
Aud11			081993	04/01/98	78	X	N			WBK-MW	10/06/1997	K553	TO	TUFARO TRANSIT	15142	CARROLL	8	8:45	3:00
Aud11			031467	05/01/98	27	P090	N			WO-SB	09/04/1997	O114	CT	CARAVAN TRANSIT INC.	27232	PS 232	23	8:20	2:40
Aud11			051196	06/01/98	78	H450	N			WBK-SB	03/11/1998	K133	PW	PIONEER TRANSPORTATION CORP.	12134	CS 134	23	8:40	3:00
Aud11			071383	06/01/98	78	H450	N			WSI-SB	09/03/1997	R028	PT	PIONEER TRANSPORTATION CORP.	31027	IS 27	18	7:55	2:15
Aud11			111984	06/01/98	78	H860	N		G	WBK-SB	09/03/1997	X028	TH	THIRD AVENUE TRANSIT	10118	MIDDLE S	27	8:00	3:00
Aud11			090985	06/01/98	78	H640	N			WBK-SB	09/24/1997	K282	JCC	CARAVAN COACH CORP.	32296	PS 296	7	8:40	3:00
Aud11			092892	06/01/98	02	P217	N			WM-MW	09/04/1997	M529	AM	ALL AMERICAN SCHOOL BUS CORP.	2190	PS 190	8	8:40	3:00
Aud11			031787	06/01/98	17	O246	N			WBK-SB	09/10/1997	K282	BR	BRIGHTON BUS SERVICE	22206	PS 206	28	8:40	2:40
Aud11			052780	06/01/98	75	P721	N			WM-SB	09/04/1997	M051	VO	VARSITY TRANSIT INC.	2721	P721	11	8:30	2:50
Aud11			041394	09/01/98	75	P094	N												
Aud11			121389	09/01/98	13	P067	N			WBK-SB	09/08/1998	K022	LG	LOGAN BUS COMPANY INC.	13087	PS 67	36	8:40	3:00
Aud11			011491	09/01/98	31	P060	N			WSI-SB	09/09/1998	R031	PT	PIONEER TRANSPORTATION CORP.	31044	PS 44	1	8:40	3:00
Aud11			031294	10/01/98	24	P013	N												
Aud11			132291	10/01/98	20	P163	N			WBK-SB	09/18/1998	K295	AK	AMBOY BUS COMPANY, INC.	21097	PS 97	32	8:40	3:00
Aud11			092380	10/01/98	78	H495	W			WBK-MW	09/09/1998	K312	AK	AMBOY BUS COMPANY, INC.	22541	SHEEPSH	7	8:30	2:40
Aud11			07011989	10/01/98	12	P066	N			WBK-SB	09/09/1998	X015	PW	PIONEER TRANSPORTATION CORP.	12198	CS 198	10	8:40	3:00
Aud11			013185	11/01/98	78	A655	N			WBK-SB	09/09/1998	K134	BR	BRIGHTON BUS SERVICE	17458	P141X	12	8:30	2:50
Aud11			03211987	11/01/98	78	A680	N			WBK-SB	09/09/1998	X212	PW	PIONEER TRANSPORTATION CORP.	8125	IS 125	26	8:40	3:00
Aud11			072085	11/01/98	78	H450	N			WO-SB	09/09/1998	O239	BY	BOYTON BUS INC.	30227	IS 227	18	8:40	3:45
Aud11			010595	11/01/98	31	P042	N												
Aud11			112087	12/01/98	78	H460	N			WO-SB	09/09/1998	O097	CT	CARAVAN TRANSIT INC.	27146	PS 146	8	8:40	3:00

<OIG NOTE>:

**OIG deleted all names contained within the State's
Exhibit B.**

Exhibit B

ANALYSIS OF NYC DOE TRANSPORTATION CLAIMS
RECOMMENDED FOR TOTAL DISALLOWANCE IN THE
OIG DRAFT AUDIT REPORT
(other than those that the OIG "set aside")

#	NAME	MOS ¹	# OF TRIPS BILLED	DESCRIPTION
S1-45		3/95	4	<p>Cited for transportation not on IEP</p> <ul style="list-style-type: none"> Supporting documentation includes: (1) an IEP dated 9/30/94, which classifies the student as "learning disabled", and indicates that his visual/motor integration is 2 years below his age level; and (2) minutes of a CSE meeting on 9/30/94 discussing the student's borderline cognitive skills. <p>RSSA indicates that related services were provided on 7 days. The entire amount should be allowed.</p>
S3-25		5/99	13	<p>Cited for no IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes an IEP dated 3/8/97 on which transportation is checked off and indicates that the student has severe asthma, is emotionally disturbed and "needs constant attention in a very small setting". Minimum 2 services: Supporting documentation includes: (1) an IEP dated 3/8/97 recommending counseling services 8 times a month; and (2) the student's attendance record indicating that the student had no absences in the MOS. <p>Documentation indicates that related services were provided on 8 days. The entire amount should be allowed.</p>
S1-3		10/98	3	<p>Cited for billed more trips than service days & no minimum of 2 services</p>

¹ Service months in bold are beyond New York State's six year record retention policy. In addition, service months for the following 19 students, not otherwise included in this analysis, are beyond the State's six year record retention period: OIG audit numbers S1-5, S1-37, S1-46, S1-60, S2-5, S2-6, S2-7, S2-9, S2-18, S2-29, S3-13, S3-15, S3-17, S3-18, S3-28 and S3-29.

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				<p>minimum of 2 services</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) IEPs dated 11/18/97 & 10/30/98 recommending speech services 12 times a month; and (2) [new document] a related services report indicating that the student received services on 7 days in the 9/98. Minimum 2 services: Supporting documentation includes: (1) IEPs dated 11/18/97 & 10/30/98 recommending speech services 12 times a month; and (2) [new document] a related services report indicating that the student received services on 7 days in the 9/98. <p>Related service report indicates that services were provided on 7 days. The entire amount should be allowed.</p> <p>[NOTE: Transportation logs for this student have also been located.]</p>
S2-24		9/97	9	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes: (1) an IEP dated 5/6/97 recommending 8 speech services a month; (2) a speech/language progress report of the student indicating her regular attendance. <p>Documentation indicates that related services were provided on 8 days. The entire amount should be allowed.</p>
S1-48		3/98	4	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Supporting documentation includes a counseling RSSA indicating that one service was provided in the MOS.
S1-39		1/97	4	<p>Cited for transportation not on IEP; billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes: (1) an

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				<p>IEP dated 6/4/96, which classifies the student as "learning disabled"; and (2) an IEP dated 11/12/97 with transportation checked off and which indicates "no change"; and (3) a CSE conference result form, dated 6/4/96, indicating that transportation is required.</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) an IEP dated 6/4/96 recommending speech and counseling services 8 times a month each; (2) the student's speech-language progress report dated 5/21/96 stating that the student attends regularly; and (3) the student's school attendance record indicating that the student had no absences in the MOS. Minimum 2 services: Supporting documentation includes: (1) an IEP dated 6/4/96 recommending speech and counseling services 8 times a month each; (2) the student's speech-language progress report dated 5/21/96 stating that the student attends regularly; and (3) the student's school attendance record indicating that the student had no absences in the MOS. <p>The entire amount should be allowed.</p>
S3-19		4/96	13	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes: (1) an IEP dated 11/13/95 recommending speech services 8 times a month and counseling services 4 times a month; and (2) the student's school attendance record indicating that the student had only 1 absence in the MOS. <p>Documentation indicates that related services were provided on 8 days. The entire amount should be allowed.</p>
S1-6		12/98	4	<p>Cited for transportation not on IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes IEPs dated 12/4/97 and 6/10/98 which classify the student as "emotionally disturbed", and indicate

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				<p>that the student has cerebral giantism.</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) an IEP dated 6/10/98 recommending counseling services 4 times a month and speech services 8 times a month; and (2) the student's school attendance record indicating that the student had no absences in the MOS. Minimum 2 services: Supporting documentation includes: (1) an IEP dated 6/10/98 recommending counseling services 4 times a month and speech services 8 times a month; and (2) the student's school attendance record indicating that the student had no absences in the MOS. <p>The entire amount should be allowed.</p>
S1-28		5/97	4	<p>Cited for transportation not on IEP</p> <ul style="list-style-type: none"> Supporting documentation includes an IEP dated 5/6/96, which classifies the student as "learning disabled", is moderately mentally retarded, and that she functions in the lower level of the intellectually deficient range. <p>RSSAs indicate that related services were provided on 10 days. The entire amount should be allowed.</p>
S2-22		10/98	8	<p>Cited for billed more trips than service days and no minimum of 2 services</p> <ul style="list-style-type: none"> Supporting documentation includes the RSSA which confirms that related services were provided on 6 days. <p>The entire amount should be allowed.</p>
S2-25		9/93	9	<p>Cited for no IEP & billed more trips than service days</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes: (1) an IEP dated 4/27/92, on which transportation is

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				<p>checked off and classifies student as "mentally retarded"; and (2) an Application for Transportation of Handicapped Pupil by Contract Carrier dated 8/13/92, with a change of school from P209 to P226, where the student received related services in 9/93.</p> <p>RSSAs indicate that related services were provided on 3 days. The entire amount should be allowed.</p>
S1-58		11/98	4	<p>Cited for no transportation on IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> • IEP: Supporting documentation includes an EPC conference result form dated 1/28/98 indicating that transportation is required. • Billed more trips: Supporting documentation includes: (1) an IEP dated 1/28/98 recommending speech services 12 times a month and counseling services 4 times a month; (2) the student's school attendance record indicating that the student had only 3 absences in the MOS; and (3) an RSSA for counseling from the prior year indicating that the student attended counseling an average of nearly 3 times a month. • Minimum 2 services: Supporting documentation includes: (1) an IEP dated 1/28/98 recommending speech services 12 times a month and counseling services 4 times a month; (2) the student's school attendance record indicating that the student had only 3 absences in the MOS; and (3) an RSSA for counseling from the prior year indicating that the student attended counseling an average of nearly 3 times a month. <p>The entire amount should be allowed.</p>
S2-19		1/94	9	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> • Minimum 2 services: Supporting documentation includes: (1) an IEP dated 11/18/93 recommending speech services 12 times a month and counseling services 4 times a month; and (2) the student's school attendance record indicating

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				<p>that the student had only 8 absences in the MOS.</p> <p>Documentation indicates that related services were provided on at least 8 days. The entire amount should be allowed.</p>
S3-9		4/97	13	<p>Cited for no IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> • IEP: Supporting documentation includes: (1) an EPC conference result form dated 3/31/95 indicating transportation eligibility; and (2) an IEP dated 9/21/95 with transportation checked off and classifying the student as "mentally retarded". • Minimum 2 services: Supporting documentation includes: (1) and IEP dated 9/21/95 recommending 8 speech services and 4 counseling service a month; and (2) the student's school attendance record indicating that the student had only 4 absences in the MOS. <p>Documentation indicates that related services were provided on 8 days. The entire amount should be allowed.</p>
S1-20		5/99	4	<p>Cited for transportation not on IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> • IEP: Supporting documentation includes an IEP dated 3/19/99 which states that the student needs "assistance from a paraprofessional". • Billed more trips: Supporting documentation includes: (1) an IEP dated 3/19/99 recommending counseling 4 times a month, speech services 8 times a month, OT 4 times a month and PT 12 times a month; (2) a related service provider report dated 5/13/99 for speech, indicating that the student has "a high attendance rate"; (3) a related service provider report dated 5/13/99 for OT noting good attendance; (4) a related service provider report dated 6/1/99 for counseling noting the student's good attendance; and (5) the student's school attendance record indicating the student had no absences in the

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				<p>MOS.</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes: (1) an IEP dated 3/19/99 recommending counseling 4 times a month, speech services 8 times a month, OT 4 times a month and PT 12 times a month; (2) a related service provider report dated 5/13/99 for speech, indicating that the student has "a high attendance rate"; (3) a related service provider report dated 5/13/99 for OT noting good attendance; (4) a related service provider report dated 6/1/99 for counseling noting the student's good attendance; and (5) the student's school attendance record indicating the student had no absences in the MOS. <p>The entire amount should be allowed.</p>
S2-17		1/97	9	<p>Cited for transportation not on IEP and billed more trips than service days</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) an IEP dated 4/16/96 recommending speech and OT services 8 times a month each; (2) an RSSA for speech services indicating that the student attended 8 days; and (3) the student's school attendance record indicating that the student had no absences in the MOS. <p>The entire amount should be allowed.</p>
S1-17		10/96	4	<p>Cited for no IEP</p> <ul style="list-style-type: none"> Supporting documentation includes [new document] an IEP dated 4/27/94 and updated on 11/13/96 which classifies the student as "orthopedically impaired", and indicates that the student has "impaired gross and fine motor skills", balance and coordination are impaired due to muscle weakness, and has "multiple physical disabilities". <p>RSSAs indicate that related services were provided on 16 days. The entire amount should be allowed.</p>

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S1-35		2/98	3	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) an IEP dated 3/25/98 recommending PT, OT and speech 12 times a month each, and indicating that it is a "continuation" of the previous IEP; and (2) [new document] RSSAs for OT, speech and PT indicating that services were provided on a total of 15 days in the MOS. Minimum 2 services: Supporting documentation includes: (1) an IEP dated 3/25/98 recommending PT, OT and speech 12 times a month each, and indicating that it is a "continuation" of the previous IEP; and (2) [new document] RSSAs for OT, speech and PT indicating that services were provided on a total of 15 days in the MOS. <p>RSSAs indicate that related services were provided on 15 days. The entire amount should be allowed.</p> <p>[NOTE: Transportation logs for this student have also been located.]</p>
S1-42		2/96	4	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes: (1) an IEP dated 11/13/95 recommending counseling services 4 times a month; and (2) the student's school attendance record indicating that the student had only one absence in the MOS. <p>Documentation indicates that related services were provided on at least 3 days. The entire amount should be allowed.</p>
S1-10		4/94	1	<p>Cited for transportation not on the IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes [new document] an IEP dated 11/18/96 with

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#	NAME	MOS ¹	# OF TRIPS BILLED	DESCRIPTION
				<p>transportation checked off, and which classifies the student as "learning disabled".</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes [new document] RSSAs for speech and counseling indicating that related services were provided on 8 days in the MOS. Minimum 2 services: Supporting documentation includes [new document] RSSAs for speech and counseling indicating that related services were provided on 8 days in the MOS. <p>RSSAs indicate that related services were provided on 8 days. The entire amount should be allowed.</p> <p>[NOTE: Transportation logs for this student have also been located.]</p>
S2-20		1/98	8	<p>Cited for no IEP</p> <ul style="list-style-type: none"> Supporting documentation includes (1) an IEP dated 3/19/96 and updated 6/6/96, with a start date of 9/96, on which transportation is checked off, and which classifies the student as "learning disabled"; and (2) RSSAs for speech, OT and PT for the school year indicating that the student received a total of 17 services, and which reflect the same recommended number of services as on the 3/19/96 IEP. <p>RSSAs indicate that related services were provided on 12 days. The entire amount should be allowed.</p>
S1-11		3/99	4	<p>Cited for transportation not on IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes an IEP dated 6/17/98, which classifies the student as "emotionally disturbed", and indicates that the student's behavior is problematic. Billed more trips: Supporting documentation includes: (1) an IEP dated 6/17/98 recommending speech services 8 times a month and counseling services 4 times a month; (2) a

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				<p>counseling report dated 5/21/98 stating that the student attended 18 sessions between 1/14/98 and 5/21/98 (an average of 4.5 times a month); (3) a speech language progress report dated 5/26/98 noting the student's regular attendance; and (4) the student's school attendance record indicating that the student had only one absence in the MOS.</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes: (1) an IEP dated 6/17/98 recommending speech services 8 times a month and counseling services 4 times a month; (2) a counseling report dated 5/21/98 stating that the student attended 18 sessions between 1/14/98 and 5/21/98 (an average of 4.5 times a month); (3) a speech language progress report dated 5/26/98 noting the student's regular attendance; and (4) the student's school attendance record indicating that the student had only one absence in the MOS. <p>The entire amount should be allowed.</p>
S1-43		9/98	2	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Supporting documentation includes NYC Dept. of Transportation information showing that this child received bus transportation services in Sept. '98. <p>The entire amount should be allowed.</p>
S2-3		9/97	9	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Supporting documentation includes an RSSA for speech indicating that the student received services on one day.
S2-13		11/96	8	<p>Cited for no IEP and billed more trips than service days</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes an IEP dated 5/3/95 on which transportation is checked off, and which classifies the student as "mentally

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				<p>retarded".</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) an IEP dated 5/3/95 recommending speech and OT services 8 times a month each; (2) the student's school attendance record indicating that the student had no absences in the MOS; and (3) an RSSA for speech indicating that the student received services on 3 days during the MOS. <p>Documentation indicates that related services were provided on at least 3 days. The entire amount should be allowed.</p>
S1-14		9/98	4	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes a speech RSSA, which indicates that the student received 4 services during the MOS. Minimum 2 services: Supporting documentation includes a speech RSSA, which indicates that the student received 4 services during the MOS. <p>The entire amount should be allowed.</p>
S1-13		2/95	4	<p>Cited for no IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes [new document] an IEP dated 11/14/94 on which transportation is checked off. Minimum 2 services: Supporting documentation includes: (1) an IEP dated 11/14/94 recommending counseling services 4 times a month; and (2) the student's attendance record indicating that the student had no absences in the MOS. <p>Documentation indicates that related services were provided on 4 days. The entire amount should be allowed.</p>

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S1-24		1/99	4	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Supporting documentation includes an RSSA for counseling indicating that the student received one service in the MOS.
S3-4		4/98	13	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) an IEP dated 6/9/97, recommending counseling 8 times a month and speech services 12 times a month; (2) a counseling RSSA indicating that the student received 2 services in the MOS; and (3) the student's school attendance record indicating that the student had only 2 absences in the MOS. Minimum 2 services: Supporting documentation includes counseling RSSA, which indicates that the student received 2 services in the MOS. <p>Documentation indicates that related services were provided on at least 2 days. The entire amount should be allowed.</p>
S2-1		5/97	9	<p>Cited for transportation not on IEP & billed more trips than service days</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes: (1) an IEP dated 9/26/96, which classifies the student as "mentally retarded", and states that the student is diagnosed with a seizure disorder; (2) an IEP dated 11/20/97 with transportation checked off, classifying the student as "mentally retarded" with seizures, and indicates "no change" in services; and (3) IEP dated 1/26/98 with transportation checked off and student classified as "mentally retarded" and has a seizure disorder. <p>RSSA indicates that related services were provided on 6 days. The entire amount should be allowed.</p>
S3-12		10/98	13	<p>Cited for billed more trips than service days & no minimum of 2 services</p>

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				<p>minimum of 2 services</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) an IEP dated 11/6/97 recommending PT 20 times a month, OT 8 times a month, speech 8 times a month and counseling 4 times a month; and (2) the student's school attendance record indicating that the student had only 3 absences in the MOS. Minimum 2 services: Supporting documentation includes: (1) an IEP dated 11/6/97 recommending PT 20 times a month, OT 8 times a month, speech 8 times a month and counseling 4 times a month; and (2) the student's school attendance record indicating that the student had only 3 absences in the MOS. <p>The entire amount should be allowed.</p>
S1-30		6/98	4	<p>Cited for no IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes: (1) an IEP dated 4/26/95 on which transportation is checked off and indicates that the student is learning disabled and suffers from asthma; and (2) an IEP dated 9/14/98 on which transportation is checked off, and indicates that the student is learning disabled and suffers from asthma. Services: Supporting documentation includes an RSSA for counseling indicating that the student received one service in the MOS.
S3-6		9/97	13	<p>Cited for transportation not on IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes: (1) [new document] an IEP dated 6/23/95 on which transportation is checked off, classifies the student as "orthopedically impaired", and indicates that the student wears leg braces; (2) an IEP dated 10/7/96 which classifies the student as "orthopedically impaired" and indicates that the student wears leg braces, has delayed gross motor skills, has limited endurance in physical activities and has shortness of breath after limited

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				<p>activity; (3) an IEP dated 6/2/99 on which transportation is checked off and classifies the student as "orthopedically impaired"; and (4) [new document] an IEP dated 2/21/02 on which transportation is checked off and recommends door-to-door transportation.</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes [new documents] RSSAs for speech and PT indicating that related services were provided on 12 days in the MOS. <p>RSSAs indicate that related services were provided on 12 days. The entire amount should be allowed.</p>
S2-10		11/94	9	<p>Cited for transportation not on the IEP</p> <ul style="list-style-type: none"> Supporting documentation includes an IEP dated 1/4/94, which indicates that the student has asthma and has significant impairment in the ability to receive, express, process and translate information. <p>The entire amount should be allowed.</p>
S2-23		10/93	9	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Billed more trips: Supporting documentation includes: (1) an IEP dated 6/15/93 recommending speech services 8 times a month; and (2) the student's school attendance record indicating that the student only had 6 absences in the MOS. Minimum 2 services: Supporting documentation includes: (1) an IEP dated 6/15/93 recommending speech services 8 times a month; and (2) the student's school attendance record indicating that the student only had 6 absences in the MOS. <p>Documentation indicates that related services were provided on at least 2 days. The entire amount should be allowed.</p>

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S1-2		1/99	4	<p>Cited for transportation not on IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> • IEP: Supporting documentation includes: (1) an IEP dated 5/22/98 which classifies the student as "learning disabled" (transportation box is cut off); and (2) an EPC conference result form dated 5/22/98 indicating that transportation is required. • Minimum 2 services: Supporting documentation includes: (1) an IEP dated 5/22/98 recommending counseling services 4 times a month; and (2) the student's school attendance record indicating that the student had only 3 absences in the MOS, 2 of which were on consecutive days. <p>The entire amount should be allowed.</p>
S1-8		6/97	4	<p>Cited for transportation not on IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> • IEP: Supporting documentation includes: (1) an IEP dated 9/25/96, which classifies the student as "learning disabled", and notes that the student has a "deficient range of intelligence"; and (2) an IEP dated 11/10/93 on which transportation is checked off, and classifies the student as "learning disabled", and has a "borderline range of intellectual functioning". • Billed more trips: Supporting documentation includes: (1) an IEP dated 9/25/96 recommending counseling services 8 times a month; and (2) the student's school attendance record indicating that the student had 6 absences in the MOS. <p>Minimum 2 services: Supporting documentation includes: (1) an IEP dated 9/25/96 recommending counseling services 8 times a month; and (2) the student's school attendance record indicating that the student had 6 absences in the MOS.</p> <p>Documentation indicates that related services were provided on at least 2 days. The entire amount should be allowed.</p>

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S2-30		5/97	8	<p>Cited for billed more trips than service days, daily round trips claimed in excess of number of days health services rendered & no minimum of 2 services</p> <ul style="list-style-type: none"> Supporting documentation includes the RSSA for speech services provided in a group setting and PT services. This confirms 9 days of services in the sample month. <p>The entire amount should be allowed.</p>
S2-8		10/94	8	<p>Cited for transportation not on IEP & billed more trips than service days</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes: (1) an IEP dated 3/10/94 indicating that the student has subluxation of the fingers in both hands and a cleft palate, and recommends adaptive physical education; and (2) an IEP dated 11/15/94 & 11/23/94 indicating transportation and the same disabilities and related services as on the 3/10/94 IEP. Billed more trips: Supporting documentation includes (1) an IEP dated 3/10/94, recommending 12 speech and OT services a month each and 8 PT services a month; and (2) the student's school attendance record indicating that the student had only 3 absences in the MOS. <p>The entire amount should be allowed.</p>
S1-28		1/00	3	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes the student's speech RSSA indicating that 2 services were provided in the MOS. <p>RSSA indicates that related services were provided on 2 days. The entire amount should be allowed.</p> <p>[NOTE: Transportation logs for this student have also been located.]</p>

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S3-21		6/97	13	<p>Cited for no IEP & billed more trips than service days</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes an application for transportation of special education students dated 7/17/96 indicating that the reason for transportation is that the student is "more than one mile". <p>RSSAs indicate that related services were provided on 6 days. The entire amount should be allowed.</p>
S2-16		3/97	9	<p>Cited for transportation not on IEP, billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes an IEP dated 11/14/96, on which transportation is checked off. Billed more trips: Supporting documentation includes: (1) an IEP dated 11/14/96 recommending speech services 8 times a month; and (2) the student's school attendance record indicating that the student had only one absence in the MOS. Minimum 2 services: Supporting documentation includes: (1) an IEP dated 11/14/96 recommending speech services 8 times a month; and (2) the student's school attendance record indicating that the student had only one absence in the MOS. <p>Documentation indicates that related services were provided on at least 7 days. The entire amount should be allowed.</p>
S1-26		6/94	1	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Supporting documentation includes providers billing for transportation for this student for the month of June 1994. <p>The entire amount should be allowed.</p>

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S2-11		12/98	9	<p>Cited for no IEP</p> <ul style="list-style-type: none"> Supporting documentation includes a letter sent to the parent which indicates that an IEP was developed at the 10/22/98 CSE meeting. This letter also shows that the child was approved for transportation. <p>The entire amount should be allowed.</p>
S1-27		3/98	4	<p>Cited for transportation not on IEP & billed more trips than service days</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes: (1) a CSE conference result form from a 3/19/99 conference indicating that transportation is required; (2) an IEP dated 2/25/98, which classifies the student as "emotionally disturbed" and asthmatic; and (3) [new document] an IEP dated 11/16/95 on which transportation is checked off and indicates that the student suffers from asthma. <p>RSSA indicates that related services were provided on 2 days. The entire amount should be allowed.</p>
S1-15		3/98	4	<p>Cited for transportation not on IEP</p> <ul style="list-style-type: none"> Supporting documentation includes: (1) a CSE conference result form dated 1/20/98 indicating the need for transportation; and (2) an IEP dated 1/20/98, which classifies the student as "emotionally disturbed". <p>The entire amount should be allowed.</p>
S1-55		4/94	1	<p>Cited for transportation services not included on IEP</p> <ul style="list-style-type: none"> Supporting documentation includes the STAC 3 form for this student showing that the child was approved for transportation services on 10/12/93. Also included is NYC Dept. of Transportation information which shows 20 transportation services for this child in the review month of April 1994.

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				The entire amount should be allowed.
S1-32		11/96	4	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes: (1) an IEP dated 11/13/96 recommending speech services 8 times a month and counseling services 4 times a month; and (2) the student's school attendance record indicating that the student had only one absence in the MOS. <p>The entire amount should be allowed.</p>
S3-3		11/96	13	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Minimum 2 service: Supporting documentation includes: (1) an IEP dated 5/14/96 (updated 11/21/96) recommending speech and counseling services 8 times a month each; and (2) the student's school attendance record indicating that the student had only one absence in the MOS. <p>Documentation indicates that related services were provided on at least 7 days. The entire amount should be allowed.</p>
S2-28		9/95	8	<p>Cited for transportation services not included on IEP</p> <ul style="list-style-type: none"> Supporting documentation includes the child's IEP dated 4/28/95, indicating transportation services for the student, which covers the review date of 9/1/95. <p>The entire amount should be allowed.</p>
S3-5		11/97	13	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes the student's RSSA for speech services indicating that the student attended 5 services. <p>RSSA indicates that related services were provided on 5 service days. The entire amount</p>

#	NAME	MOS ¹	# OF TRIPS BILLED	DESCRIPTION
				should be allowed.
S1-38		2/99	4	<p>Cited for no IEP</p> <ul style="list-style-type: none"> Supporting documentation includes: (1) an IEP dated 8/29/97 on which transportation is checked off and the student is classified as "learning disabled" and has a "history of asthma"; and (2) an IEP dated 3/10/99, with the projected date of initiation as "January 1999", which classifies the student as "learning disabled", indicates that the student has asthma, and recommends no change in services. <p>The entire amount should be allowed.</p>
S1-4		12/98	4	<p>Cited for transportation not on IEP</p> <ul style="list-style-type: none"> Supporting documentation includes: (1) an IEP dated 4/27/98, which classifies the student as "learning disabled" and indicates that the student suffers from asthma; and (2) an EPC conference result form dated 4/27/98 indicating the need for transportation. <p>RSSAs indicate that related services were provided on 7 days. The entire amount should be allowed.</p>
S2-2		3/95	9	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> Minimum 2 services: Supporting documentation includes: (1) an IEP dated 3/25/94 (updated 11/16/94) recommending speech services 8 times a month; and (2) the student's school attendance indicating that the student had no absences in the MOS. <p>Documentation indicates that related services were provided on 8 service days. The entire amount should be allowed.</p>
S1-49		2/95	4	<p>Cited for no IEP & billed more trips than service days</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes an IEP dated 11/29/93 classifying the student as

#	NAME	MOS ^t	# OF TRIPS BILLED	DESCRIPTION
				<p>"learning disabled" and indicates that the student suffers from asthma.</p> <p>RSSA indicates that related services were provided on 3 days. The entire amount should be allowed.</p>
S1-25		2/99	4	<p>Cited for transportation not on IEP</p> <ul style="list-style-type: none"> Supporting documentation includes an IEP dated 1/6/98, which classifies the student as "learning disabled" and indicates that the student acts out and exhibits disruptive behavior. <p>The entire amount should be allowed.</p>
S3-11		6/98	13	<p>Cited for no IEP & billed more trips than service days</p> <ul style="list-style-type: none"> IEP: Supporting documentation includes: (1) [new document] a CSE conference result form dated 3/11/98, indicating the need for transportation; and (2) an IEP dated 5/22/01 on which transportation is checked off, and indicates that the student has asthma, is autistic, requires a paraprofessional, and recommends "no change" in services. <p>RSSA indicates that related services were provided on at least 8 days. The entire amount should be allowed.</p>
S1-22		11/98	2	<p>Cited for lack of complete assurance that services were rendered.</p> <ul style="list-style-type: none"> Supporting documentation includes NYC Dept. of Transportation indicating that the student was transported by school bus in November 1998. <p>As NYCDOE has already submitted the IEP indicating transportation and the RSSA form to document this claim, the entire amount should be allowed.</p>
S2-15		4/96	9	<p>Cited for transportation not on IEP, billed more trips than service days & no minimum of 2 services</p>

#	NAME	MOS ¹	# OF TRIPS BILLED	DESCRIPTION
				<ul style="list-style-type: none"> • IEP: Supporting documentation includes an IEP dated 5/16/95, which indicates that the student's understanding and use of language are limited and delayed, and that the student is easily angered and physically aggressive with others. • Billed more trips: Supporting documentation includes: (1) an IEP dated 5/16/96 recommending speech services 12 times a month; and (2) the student's school attendance records indicating that the student had no absences in the MOS. • Minimum 2 services: Supporting documentation includes: (1) an IEP dated 5/16/96 recommending speech services 12 times a month; and (2) the student's school attendance records indicating that the student had no absences in the MOS. <p>Documentation indicates that related services were provided on 12 days. The entire amount should be allowed.</p>
S1-53		11/97	4	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> • Supporting documentation includes an RSSA for counseling indicating that the student received one service in the MOS.
S3-30		6/98	13	<p>Cited for transportation not on IEP</p> <ul style="list-style-type: none"> • Supporting documentation includes: (1) an EPC conference result form dated 1/29/98 indicating that transportation is required for this student; (2) and IEP dated 11/18/97 on which transportation is checked off and which classifies the student as "mentally retarded" and indicates that the student has cerebral palsy; and (3) an IEP dated 1/29/98 which classifies the student as "mentally retarded" and indicates that the student has cerebral palsy, an awkward gait and spastic dislegia. <p>The entire amount should be allowed.</p>

#	NAME	MOS ¹	# OF TRIPS BILLED	DESCRIPTION
S3-10		4/99	13	<p>Cited for no IEP, billed more trips than service days & no minimum 2 services</p> <ul style="list-style-type: none"> • IEP: Supporting documentation includes an IEP dated 7/16/97, on which transportation is checked off, and which classifies the student as "multiply handicapped", with significant hypotonia, seizure disorder, awkward gait and no awareness of pain, requires "the supervision and monitoring of a para on the bus due to her frailty and seizure disorder", and recommends a transportation para to and from school daily. • Billed more trips: Supporting documentation includes: (1) an IEP dated 3/11/97 recommending speech, OT and PT 12 times a month each; and (2) the student's school attendance record indicating that the student had only 2 absences in the MOS. • Minimum 2 services: Supporting documentation includes: (1) an IEP dated 3/11/97 recommending speech, OT and PT 12 times a month each; and (2) the student's school attendance record indicating that the student had only 2 absences in the MOS. <p>Documentation indicates that related services were provided on at least 10 days. The entire amount should be allowed.</p>
S3-22		9/94	13	<p>Cited for billed more trips than service days & no minimum of 2 services</p> <ul style="list-style-type: none"> • Supporting documentation includes an RSSA for counseling indicating that the student received one service in the MOS.
S1-31		2/99	4	<p>Cited for transportation not on IEP & billed more trips than service days</p> <ul style="list-style-type: none"> • IEP: Supporting documentation includes an IEP dated 5/6/98 indicating that the student suffers from asthma, and recommends counseling "to help improve emotional functioning". • Billed more trips: Supporting documentation

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				<p>includes: (1) an IEP dated 5/6/98 recommending counseling services 4 times a month and speech services 8 times a month; (2) student's school attendance record indicating that the student had no absences in the MOS; and (3) an RSSA for counseling indicating that the student received 3 services in the MOS.</p> <p>The entire amount should be allowed.</p>
S3-23		4/98	13	<p>Cited for no IEP, billed more trips than service days & no minimum 2 services</p> <ul style="list-style-type: none"> • IEP: Supporting documentation includes: (1) an IEP dated 12/3/96 on which transportation is checked off and classifies the student as "visually impaired" and requiring adaptive physical education; and (2) [new document] an IEP dated 4/18/96, and updated on 4/30/98 and 3/15/99, on which transportation is checked off, and indicates that the student is "visually impaired". • Minimum 2 services: Supporting documentation includes: (1) an IEP dated 12/3/96 recommending counseling 8 times a month; and (2) the student's school attendance record indicating that the student had no absences in the MOS. <p>Documentation indicates that related services were provided on 8 days. The entire amount should be allowed.</p>

<OIG NOTE>:

Exhibit C consists of detailed case information corresponding to the 65 claims listed in Exhibit B.

Exhibit C

ACKNOWLEDGMENTS

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